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NEW YORK UNIVERSITY,
March 5, 1902.

POLITICAL HISTORY OF THE UNITED STATES

This one

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POLITICAL HISTORY OF THE UNITED STATES.

CHAPTER I.

THE ARRANGEMENT WITH ERSKINE.

THE ship of state was driving before a terrible storm when James Madison took the helm in 1809. The Republicans had used their weapon of peace against England and France, and it had broken in their hands. They had gained control of the government because of their championship of the liberty of the individual, because of their opposition to every measure that tended to increase the powers of the general government at the expense of those of the states. To protect the liberty of the individual at all hazards, to vindicate the capacity of the people to govern themselves, was their special mission. Could they accomplish their mission and, at the same time, act on the theory that the United States was a nation? Were the liberty of the individual, and the centralization of power required by the assertion of nation-

The creed of the Republican party.

ality, compatible? The Republicans had maintained that they were not. Hence their theory of the central government—the foreign branch of our governmental system; the domestic branch being vested in the government of the states. Hence, also, their theory that commercial restrictions would prove an effective substitute for war.

It was the attempt to carry out their theory of commercial restrictions that had plunged the country into the humiliations and disasters of the embargo system. And when that system failed, their sentiment of nationality was not strong enough to prevent the Republicans from submitting to the outrages of England and Napoleon. Entangled in the meshes of their own theories, their patriotism was not of the kind to prompt them to cut their way out with the sword. But it needed no prophet to tell that this would not always be so—that the descendants of the men of 1776, with an environment that fostered the feeling of individual liberty as no other had ever done, would not continue to submit to outrages in comparison with which the aggressions of 1775 were as the caresses of affection.

Lack of national feeling in the Republicans.

To lead a people torn by conflicting impulses, smarting under the sense of humiliation and yet afraid to resort to war, still mumbling the formulas of state sovereignty although rapidly developing so strong a sentiment of nationality that

Madison as an executive.

it was depriving those formulas of meaning,—to lead such a people to adopt wise measures required a strong executive, an executive possessed of both judgment and determination. But Madison was lacking in both these qualities. The ship was driving before a terrible storm; her captain could not be relied upon to plan a wise course, or to execute the plans he had decided upon.

Madison's weakness as an executive appeared in the selection of his cabinet. He wished to make Gallatin his Secretary of State. But Gallatin's course as Secretary of the Treasury had angered some of the men who were then in the Senate. It is doubtful if ever a man held office who kept his eye more unwaveringly fixed on what he conceived to be the great ends of government, or refused more resolutely to swerve from the path that led to them, than did Albert Gallatin. He never *said* that public office was a public trust, but he constantly acted on that conception of it. He refused to use the patronage at his disposal to promote the personal ends of Michael Leib, one of the senators from Pennsylvania. This made Leib his enemy. He criticised the looseness and extravagance of the management of the navy in both of Jefferson's administrations. This displeased Robert Smith, the Secretary of the Navy, and his brother Samuel, who was then one of the senators from Maryland. Leib and Smith combined with Giles, one of the senators from

Madison's cabinet.

Virginia, to prevent Madison from making Gallatin Secretary of State. They gave Madison to understand that the Senate would not confirm Gallatin's nomination. Madison yielded. Hoping still further to conciliate this senatorial clique, he nominated as Secretary of State Robert Smith, whose abilities were so unequal to the position that Madison was obliged himself to perform the most important duties of the office. It augured ill for the success of Madison's administration that, at a time when the critical condition of our foreign affairs demanded imperatively that they be taken in hand by the ablest man in the country, the portfolio of Secretary of State was given to so incompetent a man as Robert Smith. William Eustis of Massachusetts and Paul Hamilton of South Carolina, appointed Secretaries, respectively, of War and of the Navy, had capacity enough to perform their duties in a mechanical, routine way. But they had not force enough to exercise an appreciable influence over the course of events. The only really able man in the cabinet was Gallatin, who was continued as Secretary of the Treasury. Cæsar A. Rodney of Delaware, Attorney-General under Jefferson, was retained in his office, as was also the Postmaster-General, Gideon Granger. The Postmaster-Generalship, however, was not yet a cabinet office.

If the character of Madison's cabinet threw no light on his intended policy, his inaugural address was equally

silent. "The transition," he said, "to the scene which has for some time been distressing us is not chargeable on any unwarrantable views, nor, as I trust, on any involuntary errors in the public councils." But the burning question before the American people was, not how we got into trouble, but how we were to get out of it. At a time when the honor, if not the independence, of the nation was at stake it was of little moment to insist, even if it had been true, that the government was in no wise responsible for the situation of the country. The patient was very ill indeed. The practical question was, not how did he become sick, but how was he to get well. Upon this point Madison's inaugural was silent.

Madison's policy.

Though the President gave no indication of his intended policy, it is easy enough, in the light of subsequent events, to see what it was. He intended to use all the power of his position to detach our enemies, so that we should have but one at a time to deal with. The difficulties of our position were, and had been since the enforcement of the Berlin Decree in 1807, that each of two powerful nations was infringing our rights in such a flagrant manner that it was almost impossible to say which excelled the other in outrages. The alternative, therefore, seemed to be either to go to war with both at the same time, or submit to both. Madison wished to create a situation in which we should have but one robber at a time to deal with.

There was no reason to suppose that the United States could do anything to cause Napoleon to respect our rights. Though the embargo served the purposes of Napoleon almost as well as war against England would have done, though it exposed Jefferson to the charge of acting in obedience to the commands of the French Emperor, though Napoleon regarded it as an act of hostility to England, it did not secure to us any relaxation of his system. On January 2, 1809, Armstrong wrote Madison, saying:

Napoleon's attitude towards this country.

"Their anti-neutral system is more rigidly observed; the embargo on ships of the United States found here before the imperial decrees were issued is continued; every ship of ours coming into a port of France or of her allies is immediately seized and sequestered; cargoes regularly admitted to entry by the custom-houses are withheld from their owners; ships most obviously exceptions to the operations of the decrees have been recently condemned; and—what in my view of the subject does not admit of aggravation—the burning of the ship 'Brutus' on the high seas, so far from being disavowed, is substantially justified."

If Napoleon would not cease violating our rights when we were supporting his Continental System by our embargo, it was impossible to suppose that he could be induced to discontinue his robberies after the repeal of the embargo and the passage of the Non-importation

Act. That act was a measure of comparative friendliness to England, since that country was able by means of it to get our produce through indirect channels. Madison therefore turned his attention to the English minister, and with all the more hopefulness since Erskine, having married an American lady and being a Liberal in his sympathies, was sincerely desirous of bringing about friendly relations between England and the United States.

The English minister.

When Campbell's report was submitted to Congress, Erskine, being in hearty sympathy with Madison's plan, at once began to write a series of despatches to his government with the object of showing that England must either revoke her orders or go to war with the United States. These despatches alarmed Canning. At a dinner at his house on the 18th of January, he took Pinkney, the American minister, aside and told him that if the resolutions recommended in Campbell's report were embodied in laws, the obstacles in the way of an arrangement with the United States on the subject of the Orders in Council and the "Chesapeake" would be removed. These obstacles, as we know, were the proclamation forbidding British war-vessels to enter American waters,—issued on occasion of the attack on the "Chesapeake,"—and the Non-importation Act of April, 1806. These the British government regarded as a discrimination in favor of France against England.

Effect of Erskine's despatches on Canning.

In a letter to Madison afterwards, Pinkney wrote that, not wishing to say much on topics of such importance without more reflection, he asked Canning if he might call upon him in a day or two. Canning said he would be glad to see the American minister on the following Sunday. On that occasion, in the course of a long conversation, Canning remarked that he presumed, as he could see no possible objection to it on the part of the United States, that the American government would not, after declaring commerce with France illegal, complain if the naval force of Great Britain were employed in preventing it.* He understood that Pinkney assented to this, but Pinkney afterwards assured him that he was mistaken.

Conversation between Canning and Pinkney.

On January 23, the day after the interview, Canning sent two despatches to Erskine. The first related to the "Chesapeake" affair. Erskine was instructed not to insist on the formal recall of the proclamation excluding British ships of war from American ports, as a *preliminary condition,* if French ships of war had also been excluded by law, and if those in port had been warned to leave. Even under those circumstances he was instructed to require the withdrawal of the proclamation, or the formal declaration that it was no longer in force, but the withdrawal or declaration might be made *at the same time* the terms

Canning's instructions in relation to the "Chesapeake" affair.

* Wheaton's Pinkney, 423.

of reparation were agreed to. He was also instructed not to demand the disavowal of the conduct of Commodore Barrow, as Rose had been required to do.

But Erskine was to make these concessions on the condition that the American government was "contented to receive back the men taken out of the 'Chesapeake' as the single and sufficient act of reparation." In addition to this, as an act of "spontaneous generosity"(not as a part of the reparation), the British government would make pecuniary provision for the widows or orphans of those who had been killed on the "Chesapeake," provided they were not natural-born British subjects or *deserters from the British navy.**

In relation to the repeal of the Orders in Council.

The second despatch, specifying the conditions which Erskine was to impose on the American government as the indispensable means of securing the repeal of the Orders in Council, shows more clearly, perhaps, than any other document issued by the English government in this period, the attitude towards the United States of the Tory ministry which then governed England. It was written by a minister who believed that the United States would declare war unless the Orders in Council were revoked. The minister who wrote it honestly wished to avoid war, and seemed to imagine that in offering to withdraw the orders on the conditions specified

* Cobbett's Debates, XVII., Appendix, CXXI.–III.

in this despatch he was making concessions to the United States.

The important paragraphs are the following: "From the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith it appears: First, that the American government is prepared, in the event of his Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw contemporaneously, on its part, the interdiction of its harbors to ships of war, and all Non-intercourse and Non-importation Acts so far as respects Great Britain, leaving them in force with respect to France and the powers which adopt or act under her decrees. Secondly, — what is of the utmost importance, as precluding a new source of misunderstanding which might arise after the adjustment of the other questions,— that America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemies' colonies from which she was excluded during peace. Thirdly, Great Britain, for the purpose of securing the operation of the embargo, and of the *bona fide* intention of America to prevent her citizens from trading with France and the powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of those powers; without which security for the observance of the embargo, the raising it nominally with respect to Great

Britain alone would in fact raise it with respect to all the world."

"On these conditions his Majesty would consent to withdraw the Orders in Council of January and November, 1807, so far as respects America. As the first and second of these conditions are the suggestions of the persons in authority in America, and as Mr. Pinkney has recently expressed to me his opinion that there will be no indisposition on the part of his government to the enforcement, by the naval power of Great Britain, of the regulations of America with respect to France and the countries to which those regulations continue to apply, . . . I flatter myself that there will be no difficulty in obtaining a distinct and official recognition of these conditions from the American government."*

The first thing that strikes one's attention in connection with these paragraphs is their peculiar form. Canning instructs his minister to require three conditions of the United States, and each of these conditions he represents as having been suggested by American officials. Nor does this peculiarity become less noteworthy when we compare the real statements of the American officials with the suggestions here imputed to them. In his despatch to Canning, December 3, 1808, Erskine had quoted Madison as saying that if either France or Eng- Form of these instructions.

* Cobbett's Debates, XXII., Appendix, CXXIV.-V.

land should withdraw its anti-neutral decrees, the United States "would side with that power, against the other which might continue the aggression."* Madison, of course, was only expressing an *opinion* as to what the American government would do in certain contingencies, and Canning, as well as Erskine, knew it. Canning knew that, under the American constitution, the executive cannot bind Congress; that the laws of this country are passed by Congress, and that their continuance depends upon Congress. Erskine himself, in a letter to Robert Smith, August 12, 1809, in speaking of this passage, said that he "understood very distinctly that the observations of the Secretary of State were intended to convey an *opinion* as to what ought to be, and would be, the course pursued by the United States in the event of his Majesty's Orders in Council being withdrawn."† When, therefore, Canning said in his instructions to Erskine, "It appears that the American government [meaning the executive] is willing to guarantee a continuance of the Non-intercourse Law against France in case the Orders in Council are withdrawn," it is difficult not to believe that he said what he knew was false. And when he required the American executive to guarantee a continuance of the Non-intercourse Law, he required what he knew was impossible.

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* Cobbett's Debates, XVII., Appendix, CXXXV.

† State Papers, III., 305.

For Canning's inference that the American government was willing to concede the Rule of 1756 (which the second condition required) Erskine was responsible. In a despatch dated December 4, 1808, Erskine had quoted Gallatin as saying that he "knew it was intended by the United States to abandon the attempt to carry on a trade with the colonies of belligerents in time of war which was not allowed in time of peace."* But there was surely the greatest difference between abandoning the colonial trade on grounds of expediency, and recognizing the right of England to insist on its abandonment. The Rule of 1756.

Moreover, Erskine himself afterwards officially declared that he did not understand Gallatin to refer to the direct trade, or to say that the United States would abandon any part of the colonial trade unconditionally. He understood Gallatin to say that "in the event of a treaty embracing all the points in dispute, particularly that of impressments," he believed that the United States would be disposed to waive for the present, on certain conditions, their right "to that branch, and to that branch only, of the colonial trade known by the name of direct trade, that is to say, the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permittted by the laws of the country to which those colonies be-

* Cobbett's Debates, XXII., Appendix, CXXXIX.

longed."* It is indeed true that these qualifications were not reported by Erskine to Canning. But Canning had the best of reasons for supposing that without such qualifications the Rule of 1756 would not be agreed to. The President, upon whom he purposed to impose it, had, as Secretary of State, opposed it with all his might. He had made it the subject of an elaborate pamphlet, and had shown with great clearness its utter untenability. Under those circumstances, how could Canning suppose that Madison would agree to buy off the Orders in Council by consenting to the Rule of 1756?

Besides, this condition put the Orders in Council on a new ground. They had been defended hitherto by the British government as acts of retaliation. The condition which England had uniformly proposed hitherto had been that if the United States would resent Napoleon's interference with American commerce, the British government would revoke its Orders in Council. But in Canning's instructions to Erskine he goes far beyond this: the orders will not be revoked unless the United States will consent to the Rule of 1756—unless the United States will consent to engage in no trade with Napoleon in which it cannot engage in time of peace. This condition assented to, and the Non-intercourse Law against France enforced, Eng-

New defence of the Orders in Council.

* State Papers, III., 307. The quotation is made from a letter from Gallatin to Erskine, but in his reply Erskine admitted its correctness.

land will revoke the Orders in Council; if the United States will pledge itself to do none of the things which the English orders forbid, the British government will revoke those orders!

The real object of those orders was to make the Americans carry on the neutral trade which the Napoleonic wars had thrown into their hands, in such a way as to add to the wealth of England, or to prevent them from engaging in it at all. "You may engage in that trade," England had said to the United States, "if you will pay us a tax for the privilege." But this instruction in substance said, "We will revoke the orders which restrict the trade, or which permit you to engage in it only under certain conditions,—provided you will consent to abandon it altogether!"

Canning's third condition required the American government to consent to the enforcement, by the British navy, of one of the laws of the United States. But what was the difference in principle, as Madison afterwards asked, between executing a law and making one? As the British orders, in assuming the right to tax the produce of America under certain circumstances, had assumed that the United States was a subject state of England, so this condition required the American government to concede the same thing from another point of view. It required the United States to buy off an attack

Canning's third condition.

on its sovereignty in one form by *consenting* to the abandonment of its sovereignty in another form.

Canning's motive in putting these conditions in the mouth of American officials is obvious: he hoped thereby to increase the probability that the United States would consent to them. In case, however, they were rejected as insulting, he could claim that he was innocent of any such intention, since he had only asked what he had understood from American officials their government was willing to accede to.

When Erskine received his instructions, he set to work with praiseworthy diligence to arrange the differences between the two countries. He began with the "Chesapeake" affair. After the terms of reparation had been formally agreed upon, he wrote an official letter, dated April 17, in which he said that, in addition to the prompt disavowal of the unauthorized act, and the recall from his command of the officer who had been guilty of it, England was willing to restore the men forcibly taken from the "Chesapeake," and, if acceptable to the American government to make suitable provision for the unfortunate sufferers on that occasion.

Settlement of the "Chesapeake" affair.

The reply, written by Madison, but signed by Robert Smith, concludes with the following statement: "I am authorized to inform you that the President accepts the note delivered by you in the name and by the order of

his Britannic Majesty. . . . But I have it in express charge from the President to state that, while he forbears to insist on a further punishment of the offending officer, he is not the less sensible of the justice and utility of such an example, nor the less persuaded that it would best comport with what is due from his Britannic Majesty to his own honor."*

The "Chesapeake" affair having been settled, Erskine took up the Orders in Council. It did not occur to him that Canning's first condition was to be interpreted as a demand for an official pledge of the continuance of the non-intercourse against France, since he knew that the President had no power to bind Congress. He supposed that this condition would be fulfilled if the President exhausted his constitutional powers in complying with it. When, therefore, Robert Smith told him that the President, "in pursuance of the power vested in him by Congress, would issue a proclamation" for the purpose of removing restrictions on commerce with Great Britain, "to take effect on the same day that the Orders in Council should cease to operate as respects the United States," Erskine regarded that as an "official recognition," on the part of the American government, of the first condition.†

Erskine's interpretation of the first condition.

As to the Rule of 1756 (which Erskine understood to

* State Papers, III., 296.

† Cobbett's Debates, XVII., Appendix, CLII., III.

apply only to the direct trade), Robert Smith said that he was confident there would be no difficulty in meeting the views of the British government when the various articles of a commercial treaty should be arranged, but that in the mean time the American government could not officially recognize it. He argued, however, that inasmuch as the Non-intercourse Act forbade all trade between the United States and France and its dependencies, this condition was of no practical importance, since the result which the British government hoped to secure through the Rule of 1756 would be reached in another way. What the British government desired was to prevent all trade with France and her allies. This result would be obtained through the operation of the Non-intercourse Act whether the Rule of 1756 was agreed to or not.

The "understanding" as to the second.

With regard to the third condition, Robert Smith told Erskine that it would be impossible for the President to consent to such a degradation of the national authority as would be involved in authorizing Great Britain to enforce a law of the United States. But in this instance, also, he urged that the matter was of no practical importance, since no American when engaged in a trade in violation of the laws of the United States could appeal to the government for protection.

As to the third.

Erskine realized that an "understanding" respecting the second and third conditions between the British

government and the United States was not what his instructions required. Conceiving, however, that what the American government offered with respect to the first condition was an official recognition of it, and that the understanding as to the two others was such that the objects desired by his government would be attained, he decided to disobey his instructions and make such an arrangement as Robert Smith had said the President would accept.*

* Cobbett's Debates, XVII., Appendix, CLIII.

CHAPTER II.

THE DISAVOWAL OF THE ARRANGEMENT, AND THE BREACH WITH JACKSON.

EVERYTHING having been informally determined, Erskine wrote (April 18, 1809) an official note to Robert Smith in which he said: "His Majesty would be willing to withdraw his Orders in Council for January and November, 1807, so far as respects the United States, in the persuasion that the President would issue a proclamation for the renewal of the intercourse with Great Britain."* On the same day, Secretary Smith replied that the President, by virtue of the authority conferred upon him by the Non-intercourse Act, would issue such a proclamation if the British orders were in the mean time withdrawn. The next day, Erskine wrote that, in consequence of the President's acceptance of his proposals, he was authorized to declare that the orders would be revoked on the 10th of the following June. Two days later (April 21) the proclamation was published in the "National Intelligencer."

The arrangement formally made.

Canning had written his instructions in January. In May, when he received Erskine's despatches con-

* State Papers, III., 296.

taining an account of the arrangement, the relations between England and the United States had changed radically. In January, it seemed that the British government must either recall its Orders in Council or go to war with the United States. In May, it was clear that there was no immediate danger of war. Without any concession on the part of Great Britain, the United States had abandoned the embargo, and substituted for it an act of comparative friendliness to England. Canning's instructions in January meant that England was willing to do something to avoid war with this country. But the passage of the Non-intercourse Act in March had made it clear that England need not conciliate the United States.

With the feeling that he was master of the situation, Canning decided to repudiate the arrangement. He received Erskine's despatches May 22. Without a day's delay he wrote to Erskine, severely criticising the settlement of the "Chesapeake" affair. The minister was charged with having violated his instructions in three particulars: in not requiring the exclusion of French war-ships from the harbors of the United States, and in not insisting that French ships then in American ports be warned to depart; in not requiring the formal recall of the proclamation in the official document stating the terms of the settlement, and in making the provision for the widows and orphans of those who were killed on the "Chesa-

Canning's criticism of the settlement of the "Chesapeake" affair.

peake" a part of the reparation instead of an act of "spontaneous generosity"; and in receiving and transmitting a note containing expressions of disrespect to the King of England.

On May 23, Canning wrote a second despatch, criticising Erskine's disregard of his instructions in relation to the orders; and on May 30, a third, inclosing an Order in Council disavowing the arrangement and ordering Erskine to return to England. The order provided that American vessels which should have cleared for Holland between April 19 and July 20 should not be disturbed.

The arrangement disavowed.

Was Canning justified in disavowing the arrangement? As to his repudiation of the settlement of the "Chesapeake" affair there can be but one opinion. Let us recall the circumstances. In a time of peace between England and the United States, a British frigate attacks an American national vessel, kills or wounds twenty-one of her men, and carries three of them into captivity. The three captives are Americans who have deserted from a British frigate on which they had been compelled to serve. The British government declares that the attack was unauthorized, admits that the three captives are Americans, but refuses to restore them to liberty because the United States discriminates against England in favor of France. The discrimination ceases. A British minister offers, in

Criticism of Canning.

behalf of his government, to restore the Americans to liberty and to make suitable provision for those who had suffered through the unauthorized attack. His offer is disavowed. On what ground? The American government refuses to degrade itself by proclaiming the recall of a proclamation which has already been recalled; will not consent, without a word of protest, that the officer who was responsible for the murderous attack shall go unpunished; will not admit that Great Britain has a right to claim men who have deserted from her service, especially when those men are American citizens—and, therefore, the men unjustly captured must remain in captivity!

But the character of the disavowal of the rest of the arrangement is almost as clear. In an interview with Pinkney June 22, Canning admitted that the second condition had no necessary connection with the Orders in Council, and he intimated that he would have been content to leave it to future discussion. He added that this condition was inserted in Erskine's instructions because it had appeared, from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing to it. In the same interview Canning said he was himself of the opinion that the idea upon which the third condition turned "could not well find its way into a stipulation," and "that he should have been satisfied with the rejection

of it."* He said, also, that the exemption of Holland from the effects of the Non-intercourse Law would not have been much objected to by the British government if the government of the United States had been willing to concede the first condition, subject to that exemption.

According, then, to his own admission, his only reason for repudiating Erskine's arrangement, so far as it related to the withdrawal of the Orders in Council, was the failure of Erskine to obtain from the American government a guarantee that the Non-intercourse Law would be continued against France. That guarantee the United States could not give. To say that without it the American government might at any time renew commercial intercourse with France was not to the point, since the British government could, in that event, issue a new order.

Canning's repudiation of Erskine's arrangement was an admission that the alleged reasons for the Orders in Council were not the real reasons. His uniform contention had been that the orders had been imposed as acts of retaliation against France. How could he defend them on that ground, after rejecting an arrangement in which the United States agreed to enforce still stronger acts of retaliation? As John Randolph said in a speech in Congress, made at a time when no one

* State Papers, III., 303.

supposed Erskine's arrangement would be repudiated: "Trade with Great Britain is unshackled, her ships are admitted; trade with France is forbidden, and French ships excluded, as far as it can be done by paper. Now, in the name of common sense, what more could Mr. Canning himself want than to produce this very striking and sudden change in the relations between the two countries?" *

Randolph made this statement in a speech delivered during the special session of the Eleventh Congress, which met May 22, 1809. The leading measure of the session was an act legalizing the trade with Great Britain, which was being carried on under the authority of Madison's proclamation.

It is easy to imagine the effect of this proclamation after the long dreary months of the embargo and the only less dreary period of non-intercourse. It had declared that commerce with Great Britain might be renewed on the 10th of the following June. But long before that time, hundreds of American vessels had left the United States for British ports. Federalists vied with Republicans in exulting over the good news. The Federalist Dana of Connecticut, in speaking of the effects of the arrangement with Erskine, said: "The reproaches of party and the stigmatizing imputations of attachment to

Federalists praise Erskine's arrangement.

* Annals of Congress, 1809–1810, 100.

one or another foreign power have been hushed; industry is revived; mutual gratulations have succeeded to the voice of reproach. . . . Can there be named any one act of any chief magistrate of the United States which has produced a greater change than this?"*

Was Madison's proclamation legal?

Amid almost universal rejoicing, there was here and there a quiet criticism to the effect that the proclamation was illegal. The Non-intercourse Law authorized the President to issue a proclamation *when* Great Britain revoked her Orders in Council; Madison issued his proclamation on the bare assurance of Erskine that they *would be* revoked on the tenth day of the following June. But the chief point of debate between Federalists and Republicans was whether the arrangement with Erskine was due to the fact that Madison was not influenced by those predilections for France with which Jefferson was charged, or to the influence exerted by the embargo upon England.

A new Order in Council.

Two days before the arrangement went into effect, news reached the United States which was certainly calculated to throw doubt on its stability. The news was that on April 26 the British government had issued an Order in Council annulling the order of November, 1807, but declaring in its place a general blockade of France, Holland, and

* Annals of Congress, 1809–1810, 137.

Northern Italy. The news was spread throughout the country just after the Federalists had celebrated the 10th of June as a day of national rejoicing. At Boston, Salem, Providence, New Haven, New York, and Philadelphia, that date had been observed as a red-letter day to express the joy that commerce with Great Britain and her dependencies was at last free.

To quiet the distrust created by the new order, Erskine wrote (June 15) an official note to Robert Smith, assuring him that the order of April had no connection with the offer which he had been authorized to make to the government of the United States, and expressing his confidence that the terms of the agreement would be strictly fulfilled by England.

Both he and the American government were soon undeceived. On July 21, English newspapers were received containing the news that Erskine had been recalled and his arrangement repudiated. On August 9, Madison issued a proclamation recalling the proclamation of April, and forbidding all trade with England in conformity with the terms of the Non-intercourse Law.

The man appointed as successor to Erskine was Francis James Jackson, who had made himself infamous because of his conduct towards the Prince Royal of Denmark in 1807. On July 17 of that year, before Napoleon declared that his will was to be the law of the world, the British Cabinet sent a fleet to Copenhagen to demand of the Prince

Francis James Jackson.

Royal of Denmark the delivery of the Danish fleet as a guarantee that it would not be used against England. The minister sent to make this demand was Jackson, and in all England no fitter man could have been found for such a brutal errand. Amiable and virtuous in private life, he had a peculiar sort of pride — a characteristic of many Englishmen of his time — which made him take pleasure in the most arbitrary demands of England,—as though he gloried in being the representative of a power which recognized no limits to its actions but its own will. When Jackson was presented at court on his return from Denmark, King George asked him, "Was the Prince Royal up stairs or down when he received you?" "He was on the ground-floor," said Jackson. "I am glad of it! I am glad of it!" replied the King; "for if he had half the spirit of his uncle, George III., he would infallibly have kicked you down stairs."* And this was the man sent by Canning to curb the pretensions of a nation of democrats, and teach them their proper place!

Jackson's instructions.

He reached Washington on September 8 with five instructions to guide him in his dealings with the American government. The first instruction charged the American government with fraud and trickery: fraud, in that it had made an arrangement with Erskine which it knew he

* Lives of Lord Chancellors, VII., 220, n.

had no right to make; and trickery, in that it had published the arrangement, and issued a proclamation to carry it into effect, before the British government had had an opportunity to disavow it. How could the United States suppose, argued Canning, that the British government was willing to revoke its orders for the sake of the repeal of the Non-intercourse Law, when it had refused to abandon them to secure the repeal of the embargo? The United States did not suppose it; the American government had inveigled Erskine into an unauthorized arrangement and at once published it, in the hope that England would feel compelled to sanction it after its premature publication. If, therefore, Madison showed any disposition to complain of England's repudiation of the arrangement, Jackson was instructed to complain of the conduct of the United States. He was "to convert the responsibility of his government for the disavowal into a reproach on the American government for its conduct in the transaction disavowed."*

The second instruction related to the "Chesapeake" affair. Jackson was instructed to say that on the following conditions England would restore to their liberty the Americans captured on the "Chesapeake": the proclamation prohibiting British war-vessels from entering the ports of the United States must be formally recalled as a condition precedent (requiring the injured

* State Papers, III., 319.

party to take the first step towards the reparation of its own wrongs); the conduct of Admiral Berkeley must be ignored (and that, too, when Madison knew that, instead of having been punished, Berkeley had been promoted to a more important command); finally, the American government must concede England's right to claim the service of deserters from her vessels, particularly of her natural-born subjects, not excepting those who had become, by naturalization, American citizens (thereby admitting by implication that Commodore Barron had done wrong in not giving up deserters from the British service, and agreeing that the commanders of American vessels should not do so again).

The third instruction related to the Orders in Council. In this Canning took a position in advance of any he had ever before taken; he would not consent to withdraw or modify the British orders unless the United States would "execute in substance the objects of those orders" by effectually prohibiting all trade between American citizens and France and the powers acting under the decrees of Napoleon, and unless it would "engage for the continuance of that prohibition so long as those decrees should continue unrepealed."

Criticism of Canning.

If Canning's object was to say that under no circumstances would England repeal her orders until Napoleon revoked his decrees, he was eminently successful. He knew that in the arrangement with Erskine the President

had gone to the very verge of his power under the constitution in renewing trade with Great Britain; that Congress had at once passed a law sanctioning and confirming the President's proclamation; that no more than this could be done by any American President or any American Congress. But ignoring this, abandoning utterly and unequivocally the pretence that the Orders in Council were issued as a retaliation against Napoleon because the American government would not employ the legal means at its disposal to retaliate, he told his minister that the United States must "engage" for the continuance of the prohibition of the trade with France until the French decrees were repealed.

Jackson was to make no proposals.

But Jackson was not to propose anything. Sent though he was as the successor of a minister whose arrangement had been disavowed, he was not to say why that arrangement was unsatisfactory, or propose any conditions as the basis of a new one. If the American government wished to renew the negotiation, it must take the initiative. But no proposal from the United States was to be considered that did not comprehend all three of the conditions which Erskine was instructed to require—in the face of the fact that Canning had himself admitted to Pinkney that the second of these had no necessary connection with the Orders in Council, and that the third could not "well find its way into stipulation."

The fifth instruction (the fourth related to the forms in which any arrangement made by Jackson must be framed) related to the Rule of 1756. As to that, the only question was whether it should be established by the admission of the United States, or whether it should be enforced by the naval power of Great Britain. Either authority was declared to be sufficient. If the United States refused to make the matter a subject of compact, it must be the subject of an Order in Council.*

On September 8, when Jackson reached Washington, Madison was at his plantation in Virginia. The President arrived in Washington on the 1st of October, and, as soon as Jackson was presented, the British minister and Robert Smith had an interview. Jackson's account of the interview is instructive. As England had repudiated the arrangement of the British minister, the American government naturally expected that Jackson would make a prompt and explicit explanation of the reasons for the disavowal, and present other proposals. But in this first interview Jackson told Robert Smith that he had nothing to propose; that he was instructed to wait for proposals from the United States! Upon this Smith, as Jackson wrote to Canning, "exhibited signs of the utmost surprise and disappointment. He seemed to be so little prepared for this close of my conversation that

Jackson's first interview with Smith.

* MS. British Archives.

it was some time before he could recollect himself sufficiently to give me any answer at all. Expecting to meet suggestions of a totally different nature, and finding that what he had ready to say to them did not suit the occasion, he seemed to require some time and reflection to new-arrange his thoughts."*

Smith's embarrassment was certainly natural. His self-possession would have been remarkable if it had not been disturbed by such audacity. After one more interview, Madison took the matter into his own hands. On October 9, he sent to Jackson a note (written by himself, but signed by Smith), in which he said that it was thought expedient that their discussions should be carried on in writing.†

Jackson's charges against the American government.

The disingenuous reply of the British minister to Madison's contention that the United States had a right to expect from him a prompt and explicit explanation of the repudiation of Erskine's arrangement, and the arrogant tone which, in the very beginning of his correspondence, he saw fit to take towards the American government, may be passed by without remark. But there is one passage in his letter which must be quoted at length. His first instruction, it will be remembered, directed him to meet complaints from the American government with com-

* Jackson to Canning, October 17, 1809, MS. British Archives.

† State Papers, III., 309.

plaints from England. He was to take the position that we had induced Erskine to make an arrangement which we knew he had no right to make. Jackson was a thoroughly trained diplomatist. He had represented England at more than half of the courts of Europe. But it did not require his experience to enable him to understand that his instructions commanded him to insult the American government. The problem with him was to clothe this insult in such artful and carefully chosen language as to enable him to say, in case it should be resented, that he was misunderstood, that he meant to say nothing that could possibly be offensive.

This is the way he did it: "It was not known, when I left England, whether Mr. Erskine, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But . . . I find that he states that he had submitted to your consideration the three conditions specified in these instructions. . . . Mr. Erskine then reports *verbatim et seriatim* your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of these. *It may have been concluded between you that these latter were equivalent for the original conditions;** but the very act of substitution evidently shows that those original conditions were, in fact, very explicitly

* Italics not in the original.

communicated to you, and by you, of course, laid before the President for his consideration. *I need hardly add that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April is sufficiently obvious to require no elucidation.**

" . . . You have informed me that you understood that Mr. Erskine had two sets of instructions by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you . . . that the despatch from Mr. Canning to Mr. Erskine which you have made the basis of an official correspondence with the latter minister . . . is the only despatch by which the conditions were presented to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates." †

A comparison of the italicised sentences will show the length to which Jackson went in this letter in obeying his first instruction. The difference, he says, between the conditions required by Erskine's instructions and those contained in the arrangement is too obvious to require elucidation; nevertheless "*it may have been* concluded between you" that they were an equivalent for

* Italics not in the original.

† State Papers, III., 308. Jackson to Robert Smith, October 11.

the original conditions. In other words, the American government may have concluded to regard the conditions of the arrangement as equivalent to the required conditions, when the difference between them was too evident to require explanation!

Madison did not seem to understand that he was charged with fraud. "The stress you have laid on what you have been pleased to state as the substitution of the terms finally agreed upon for the terms proposed," he said in replying, on October 19, to this part of Jackson's letter, "has excited no small degree of surprise." After declaring that nothing was more common in public negotiations than to begin with a higher demand and, that failing, descending to a lower, and that Erskine's formal assurances left no doubt that Erskine himself had supposed that he had sufficient authority to conclude the arrangement, he said: "The declaration that the despatch from Mr. Canning to Mr. Erskine of the 23d of January is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates, . . . is now for the first time made to this government. And I need hardly add that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented to Mr. Erskine, were the only ones on which

Madison's reply.

he was authorized to make an arrangement, the arrangement would not have been made."*

If Jackson had been willing to take the word of the American government, that would have ended this part of the discussion. In clear and definite language Madison said that he would not have entered into the arrangement with Erskine if he had known that the conditions required by the despatch of January 23 were the only conditions which the British minister was authorized to accept. If Madison was telling the truth, there was nothing more to be said about it.

But Jackson was bound by his instructions. According to his instructions, Madison's statement was false. He must therefore again insinuate that the American government was guilty of fraud, and this time after Madison had explicitly denied it. "These instructions I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant," he said in his reply of October 23, "were, at the time, in substance made known to you. No stronger illustration, therefore, can be given of the deviation from them which occurred than by reference to the terms of your arrangement. Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, ministers are fur-

Jackson repeats his charges.

* State Papers, III., 311.

nished with a gradation of conditions on which they may be successfully authorized to conclude. So common is the case which you put hypothetically that, in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it; which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as, in point of fact, Mr. Erskine had no such graduated instruction. You are already acquainted with that which was given, and I have had the honor of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms *which he was actually induced to accept* having been contemplated in that instruction, he himself states *that they were substituted by you* in lieu of those originally prepared."*

Madison understood him. "I abstain, sir," he said in his reply, on November 1, "from making any particular animadversions on several irrelevant and improper allusions in your letter not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself without adverting to your repetition of a language implying a knowledge on the

Madison's reply.

* State Papers, III., 315. Italics not in the original.

part of the government that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this government had no such knowledge, and that, with such knowledge, no such an arrangement would have been entered into, the view which you have again presented of the subject makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign minister with a government that understands what it owes to itself."*

Two courses were thereupon open to Jackson. He could disavow the interpretation which Madison had put upon his letter: he could say that he had not meant to imply that the American government had made an arrangement with Erskine with the knowledge that it was not authorized by the latter's instructions, or he could doggedly stand by his assertions, let the consequences be what they might.

His instructions, as well as his character, left him no option. He must stand by his assertions. His intense Tory prejudices, his contempt for the "mob and mob leaders," which, he said, he found here instead of a regular government; his English arrogance, which blunted his perceptions and led him to suppose that, in the course he was pursuing, he was only vindicating the honor of his country, made it impossible for him to re-

* State Papers, III., 317.

cede. On November 4, he reiterated his charge.* Such a letter admitted but one reply, and four days later Jackson received it: "Sir, . . . Finding that in your reply of the 4th instant you have used a language which cannot be understood but as reiterating and even aggravating the same gross insinuation, it only remains, in order to preclude opportunities which are thus abused, to inform you that no further communications will be received from you." †

* State Papers, III., 317. † Ibid.

CHAPTER III.

NAPOLEON'S REPLY TO THE NON-INTERCOURSE ACT.

A FEW days after Madison closed the correspondence with Jackson, the British minister requested his secretary, Mr. Oakley, to say to the Secretary of State that "Mr. Jackson has seen with much regret that facts which it has been his duty to state in official correspondence have been deemed by the American government to afford a sufficient motive for breaking off an important negotiation. . . . One of the facts alluded to has been admitted by the Secretary of State himself, viz., that the three conditions forming the substance of Mr. Erskine's instructions were submitted to him by that gentleman. The other, viz., that that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to Mr. Jackson by the instructions which he has himself received. In stating these facts, and in adhering to them as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that offence could be taken by the American government, as most certainly none could be intended on his part."*

Jackson's explanations.

* Mr. Oakley to the Secretary of State, November 13, 1809. State Papers, III., 319.

He repeated these statements in a circular addressed to the British consuls in the United States and published in all the papers, doubtless for the purpose of making an appeal to the American people against their government, as Genet had done in 1793.

We know how little these statements corresponded with the facts. In his letter to Pinkney giving an account of the conduct of the British minister, and asking his recall, Robert Smith said: "It was never objected to him that he had stated it as a fact that the three propositions in question had been submitted to me by Mr. Erskine, nor that he stated it as made known to him by the instructions of Mr. Canning that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived to conclude an arrangement on the matter to which it related. The objection was, that a knowledge of this *restriction* of the authority of Mr. Erskine was imputed to this government, and the repetition of the imputation even after it had been peremptorily disclaimed."* That, as we know, was the truth.

But the Federalists in and out of Congress accepted, without question, Jackson's statements at their face value.

The Federalists support Jackson.

The same newspapers which in April lauded the arangement, and said that it gave Canning all he ever asked for, in No-

* State Papers, III., 322. Robert Smith to Pinkney.

vember denounced it as a fraud practised by their own government on Erskine. The somersault in Congress was equally sudden. On December 5, 1809, a resolution was offered in the Senate by Giles indorsing the action of the President and declaring that the conduct of the British minister in intimating that the President knew that Erskine had no right to make the arrangement was indecorous and insulting; that the repetition of the intimation was still more insolent and affronting; and that the circular addressed to the Consuls was a still more "direct and aggravated insult and affront to the American people and their government." In a debate on this resolution, the Federalists declared emphatically their disapproval of the conduct of the government, and their sympathy with the position taken by Jackson. Dana, who in May declared that no other President had ever done any one act which had produced a greater change for the better than the arrangement which Madison had made with Erskine, in the following December took the ground that Madison had no right to make it, because Erskine had not exhibited his authority to make it. Emmett of New York criticised the government for telling Jackson that he had made several irrelevant and improper allusions in his letter, and regretted that the negotiation was broken off "under pretence of an insinuation which, to say no more of it, is doubtful." Another Federalist from the same state, a Mr. Gold, argued that Jackson could not have intended to make the

charge that the American government knew that Erskine had no power to make the arrangement, because that ground was not taken by the British government. Josiah Quincy employed his acute and brilliant powers in the attempt to prove, by an elaborate analysis of Jackson's letters, that Jackson had not made the charge, ignoring the sentences in which, as we have seen, it was so definitely insinuated. With Gholson's fervid appeal, "If we differ among ourselves, in the name of God let us unite against foreign aggression and insult," the Federalists had no sympathy, because their party spirit was too intense and their patriotism too feeble to permit them to become conscious of the insults of England. After a protracted debate in the House, which became so bitter that on the last day of it the Speaker was in the chair nineteen consecutive hours, Giles' resolution was carried by a strictly party vote. Every one of the forty-one Federalists in the House declared by his vote that Jackson's treatment of the American government was in no way worthy of censure. Of these forty-one votes, only eight were cast by Southern representatives.

In the latter part of November, Jackson started for New York, stopping on the way at Baltimore and Philadelphia. In all three cities, Federalist society lionized him. "Notwithstanding all that has passed," he wrote from Philadelphia, "and the government being at open war with me, the respectability has been, both here and at Baltimore, so

Federalist society lionizes Jackson.

anxious to show that they did not share the sentiments of the Democrats, that we have had throngs of visitors, and innumerable invitations that we could not accept, though we have dined at home but twice during the month we have been here. To prevent this, the savages have threatened in their papers to tar and feather every man who should ask me to his house."* He wrote from New York, February 25, 1810: "We have met with unbounded civility and good will, and may be said to live here in triumph. We are now engaged to dinner every day but two, till the end of the first week in March. The Governor of Massachusetts has written to me to invite me to Boston, where, he says, he and many others will be happy to receive me. That state . . . has done more towards justifying me to the world than it was possible, from the nature of things, that I or any other person could do in the present stage of the business. The legislature, which is not a mob like many that have passed resolutions, has agreed to a report of a joint committee, and passed resolutions in conformity with it, exculpating me altogether, and in the most direct manner censuring the conduct of the President and the general government." † His statement was correct. Early in February, 1810, the Massachusetts legislature, by a vote of two hundred and fifty-four to one hundred and forty-five, declared that they could perceive "no just or

* Bath Archives, Second Series, I., 78. † Ibid., 83.

adequate cause" for putting an end to all communications with Jackson. Evidently the Federalists in Congress did but reflect the temper of their constituents when they attacked the President of the United States in order to defend the conduct of the British minister.

Relations with France.

While the situation of the country with respect to England after the disavowal of Erskine's arrangement was desperate, its relations with France were not much better. Turreau, the French minister in the United States, was very indignant at the passage of the Non-intercourse Act. He wrote to Champagny that the French government might "rest assured that among a hundred ships leaving the ports of the Union for the high seas, ninety of them will have the real object of satisfying the wants and demands of England." Turreau believed that the passage of the Non-intercourse Law was an act of hostility which Napoleon ought not to overlook. He thought, however, that "it would be well to await the result of the next session, two months hence, before taking a severer course against the Americans." On April 29, 1809, Armstrong enclosed a copy of the Non-intercourse Act with a note to Champagny in which he announced that he was instructed to say that any interpretation of the French decrees which would leave the maritime rights of the United States unimpaired would be instantaneously followed by a repeal of the Non-intercourse Act, and a re-establishment of the ordinary commercial intercourse

between the two countries.* These diplomatic courtesies deceived nobody.

When Champagny received Armstrong's note, Napoleon was engaged in a desperate struggle with Austria. That power, deprived of four provinces and a quarter of its population by the Treaty of Pressburg, had taken advantage of the Spanish uprising, and, for the third time, had declared war against him. Although a series of brilliant victories had enabled him to enter Vienna within a month from the beginning of the campaign (May 11, 1809), his position was far from secure when he learned from his minister that the American government would no longer play the part he had assigned to it. The Austrian army was facing him on the other side of the Danube, and every faculty of his powerful mind was concentrated on the formation of plans to cross the river in the very face of the enemy, to give him battle. Four days before he fought the almost disastrous battle of Essling, he found time (May 18) to dictate the grounds of his refusal to accede to the demands of the American government.

Napoleon in Austria.

But the strongest will must give way before insurmountable obstacles, and the evidence makes it clear that for the next eight months Napoleon was in doubt as to whether it would not be necessary for him to modify, or at least pretend to modify, his American

* State Papers, III., 324.

policy. On June 10, 1809, he sent to Champagny the substance of a new decree, declaring that inasmuch as the United States had caused Great Britain to revoke her orders of November, 1807, the Milan Decree was revoked, and neutral commerce restored to its status under the Berlin Decree.* Three days later, he ordered one of his ministers at Paris to open a negotiation with Armstrong.

The disavowal of Erskine and the submission of Austria caused him to return to his first decision. Austria sued for peace early in July, and two or three days later Napoleon ordered his minister to break off the negotiation with the American minister. The submission of Austria left him in a position to dictate the policy of the whole of the continent of Europe, except the Spanish Peninsula. He felt more confident than ever that the rigorous enforcement of his Continental System would eventually enable him to destroy England.

By the 4th of August, 1809, he seems to have decided upon an American policy. On that date, his Secretary of State, Maret, sent to one of his ministers the draft of a new decree which declared that an American schooner that had come to San Sebastian on the 20th of May was confiscated in retaliation of the act passed March 1, 1809 (which forbade all French vessels, under penalty of confiscation of ships and cargo, to enter the

* Correspondence, June 10, 1809.

ports of the United States); and that every other American ship which should enter the ports of France, Spain, or Italy should be equally confiscated as long as the Non-intercourse Law continued to be enforced against France.

This decree was never published. Months after he had sent the draft of it to his minister, although in the mean time he had been making it the unvarying rule of his actions, he showed that he was not satisfied as to the ground upon which he would defend his conduct before the world. That regard for the public opinion of Europe which makes it possible for some historians to explain his career as due to the wish to put an end to the abuses of feudalism, and his wars as growing out of the "irrepressible conflict" between the old order of things and the new, made him hesitate to issue a decree ordering the seizure and confiscation of American vessels as though he were the Dey of Algiers. This embarrassment led him (January 10, 1810) to write a letter to Champagny which gave the lie to every detail of the policy which he had been carrying out since the battle of Jena, and to which he continued to adhere with such tenacity that it led to his overthrow:

"Have several conferences, if necessary, with the American minister; . . . in short, let me know your opinion on the measures proper to be taken to get out of the position we are in. . . . All the measures I have taken, as I have said several times, are

measures of reprisal. It was only to the new extension given to the right of blockade that I opposed the Decree of Berlin; and even the Decree of Berlin ought to be considered as a continental, not as a maritime, blockade. This I regard in some sort only as a protest, and a violence opposed to a violence. . . . Down to this point there was little harm. Neutrals still entered our ports; but the British Orders in Council necessitated the Milan Decree, and from that time there were no neutrals. . . . I am now assured that the English have given way; that they no longer levy taxes on ships. . . . Let me know if the fact is true; for, once I am assured that a tax on navigation will not be established by England, I shall be able to give way on many points."*

By January 20, 1810, he had reached a final decision. On that date, he ordered Champagny to write to Armstrong defending the confiscation of American ships in Spain and Naples on the ground that it was in retaliation for the Non-intercourse Act. On February 14, Champagny obeyed. The salient portion of his letter is as follows: "His Majesty could place no reliance on the proceedings of the United States, who, having no ground of complaint against France, comprised her in their acts of exclusion, and, since the month of May, have forbidden the entrance of their ports to French ves-

* Correspondence, XX., 109.

sels under penalty of confiscation. As soon as his Majesty was informed of this measure, he considered himself bound to order reprisals on American vessels, not only in his territory, but likewise in the countries which are under his influence. In the ports of Holland, of Spain, of Italy, and of Naples, American vessels have been seized because the Americans have seized French vessels."*

This tissue of falsehoods was completely torn to pieces by Armstrong in his reply. Writing March 10, 1810, he said: "It is true that the United States have, since the 20th of May last, forbidden the entry of French vessels into their harbors. And it is also true that the penalty of confiscation attaches to the violation of this law. But in what respect does this offend France? *Will she refuse to us the right of regulating commerce within our own ports?*† Or will she deny that the law in question is a regulation merely municipal?" After pointing out that the law in question only forbade American ships to enter the ports of France, and French ships to enter those of the United States; that this prohibition was made to prevent injury and insult, to escape that lawlessness which Champagny had declared to be "the compelled consequences of the British orders"; that the law was promulgated nearly two months before the time it was to go into effect, and that it operated

* State Papers, III., 301. † Italics not in the original.

solely within the territory of the United States, punishing all who disobeyed it, whether American citizens or others,—Armstrong asked: "And what is this but the exercise of a right, common to all nations, of excluding, at their will, foreign commerce and of enforcing that exclusion? Can this be deemed a wrong to France? Can this be regarded as a legitimate cause of reprisal on the part of a power who makes it the first duty of nations to defend their sovereignty, and who even denationalizes the ships of those who will not subscribe to the opinion?"

"But," he continued, "it has been said that the United States have nothing to complain of against France. Was the capture and condemnation of a ship driven on the shores of France by stress of weather and the perils of the sea nothing? Was the seizure and sequestration of many cargoes brought to France in ships violating no law and admitted to regular entry at the imperial custom-houses nothing? . . . Was it nothing that our ships were burnt on the high seas without other offence than that of belonging to the United States, or other apology than was to be found in the enhanced safety of the perpetrators? . . . But I will not press this part of my subject. It would be affrontful to your Excellency (knowing, as you do, that there are not less than one hundred American ships within his Majesty's possession or that of his allies) to multiply proofs that the *United States have grounds of complaint against France.*"

Armstrong then proceeded to examine Champagny's assertion that as soon as Napoleon was informed of the Non-intercourse Law it became his duty to retaliate, and that American vessels had been seized in the ports of Holland, Spain, Italy, and Naples because Americans had seized French vessels. After pointing out that such a law could not "authorize a measure of *reprisal* equally sudden and silent in its enactment and application, founded on no previous wrong, productive of no previous complaint, and operating beyond the limits of his Majesty's territory *and within those of sovereigns who had even admitted the commerce of the United States to their ports*,"* and after stating that the absence of complaint on the part of the French government, as well as the testimony of well-informed Americans who had recently left the United States, proved that no French vessels had been captured by the American government, Armstrong argued that Napoleon did not decide to retaliate against American vessels as soon as he was informed of the passage of the Non-intercourse Law. He reminded Champagny that on the 22d of the preceding August, when the French minister had made a full exposition of Napoleon's policy in relation to the United States, no complaint was made of the Non-intercourse Law; that when, some time after that, an American ship was captured by a French privateer, Napoleon's Minister of War gave orders that

* Italics not in the original.

all ships destined for Spanish ports were to be liberated unless they had violated the imperial decrees; that when, at a period of time still later, another American ship was brought into the port of Bayonne, it was acquitted by Napoleon's Council of Prizes; and, lastly, that Champagny himself, in a long conversation on the 25th of January, 1810, had said nothing about reprisals, but on the contrary, in speaking of the seizure of American property in Spain, had expressly declared that it was not a confiscation. "What circumstances," said Armstrong in conclusion, "may have since occurred to produce a change in his opinion I know not. But the confidence I feel in the open and loyal policy of his Majesty altogether excludes the idea that the rule was merely found for the occasion, and made to justify seizures not otherwise justifiable."* But arguments, no matter how conclusive, were powerless to move Napoleon. His reason for confiscating American ships, as Thiers himself admits, was a "mere pretence." In the rich cargoes of American ships, says the French historian, "he found means of supplying his treasury with resources almost as abundant as those which were yielded by the war contributions imposed on conquered countries."† Thiers also informs us how it happened that certain kings admitted American ships into their ports and then confiscated them. "Let them enter," said Napoleon, "and arrest them after-

* State Papers, III., 381, 382. † Thiers, III., 358.

wards; deliver the cargoes to me, and I will take them in part payment of the Prussian debt."*

On March 23, 1810, Napoleon issued the famous Rambouillet decree in which he attempted to give a semblance of legality to his piracies. He declared that all American vessels should be seized "which, counting from the 20th of May, 1809, have entered or shall enter into the ports of our empire, of our colonies, or of the countries occupied by our armies, . . . and the products of the sale deposited in the sinking fund."† By the last phrase Napoleon meant to have it understood that the property was not confiscated; that it was still the subject of adjudication, and might, under certain contingencies, be restored to its owners. His characteristic reliance upon the credulity of the world made him hope that this thin veil of falsehood which he had thrown around his conduct would prevent him from appearing as an unprincipled robber. The Rambouillet decree was not published till May. It subjected to confiscation American property valued at ten millions of dollars.

The Rambouillet decree.

* Thiers, III., 359. † State Papers, III., 384.

CHAPTER IV

THE REPEAL OF THE NON-INTERCOURSE ACT.

THAT the Non-intercourse Act would fail to coerce England and Napoleon into abandoning their anti-neutral systems ought to have been self-evident from the beginning. To expect results from such a measure after the embargo had failed was like "shooting Gibraltar with a pocket-pistol."*

Effect of the Non-intercourse Law.

But its lack of effect on foreign powers, and the useless and heavy burden which it was laying on American citizens, were not its only bad features. The accounts for the fiscal year which ended September 30 showed a deficit of $1,300,000. The receipts had amounted to $9,300,000, while the actual expenses of the government, including payments on account of the public debt, amounted to more than $10,600,000. The deficit, as well as $6,730,000 of the principal of the public debt, was paid out of the balance in the treasury. But while the fiscal year which began with October 1, 1808, showed a

* Randolph's terse comment on the embargo. His characterization of the Non-intercourse Act was equally pungent and, it may be added, equally accurate: "Was non-intercourse designed as a scarecrow to frighten the great belligerents of Europe, or a toy, a rattle, a bare plaything to amuse the great children of our political world?"

balance in the treasury of nearly $14,000,000, the new fiscal year showed a treasury balance of less than $6,000,000. Unless some change took place, or unless the law appropriating $8,000,000 annually to the payment of the public debt, interest and principal, was repealed, the end of the next fiscal year would show a deficit with no balance in the treasury to make it good. In that case the Republicans would be obliged either to resort to higher taxation, or repeal the law appropriating $8,000,000 annually for the payment of the public debt.

That the Non-intercourse Act proved expensive to the United States may be shown in another way. During the year 1807, the net receipts from customs amounted in round numbers to $16,500,000; in 1808, in consequence of the embargo, they fell to $7,200,000; and in 1809, during the greater part of which the Non-intercourse Act was in operation, they amounted to even less—about $7,140,000, and that, too, in spite of the fact that for two or three months all restrictions on commerce with England were removed.

In his annual report on the state of the finances, Gallatin told Congress that if the same amount of money were to be spent for military and naval purposes in 1810 that had been spent in 1809, there would be a deficiency of three million dollars, and in order to provide for all contingencies Congress must authorize a loan of four million dollars. On another point he was equally explicit. "The provisions adopted for carrying into effect the Non-

intercourse [Act] with England and France . . . are inefficient and altogether inapplicable to existing circumstances. It will be sufficient to observe that exportation by land is not forbidden; and that, no bonds being required from vessels ostensibly engaged in the coasting trade, nor any authority vested by the law which shall justify detention, those vessels sail daily for British ports, without any other remedy but the precarious mode of instituting prosecutions against the apparent owners. It is unnecessary, and it would be painful, to dwell on all the effects of the violations of those laws. But, without any allusion to the efficiency or political object of any system, and merely with a view to its execution, it is incumbent to state that, from the experience of the two last years, a perfect conviction arises that either the system of restriction, partially abandoned, must be reinstated in all its parts, and with all the provisions necessary for its strict and complete execution, or that all the restrictions, so far, at least, as they affect the commerce and navigation of the United States, ought to be removed."*

On December 19, 1809, Macon introduced a bill which proposed to remove all restrictions on the commerce and navigation of the United States. By its terms it excluded English and French war-ships and merchant-vessels from American harbors; permitted importations of

Macon's bill.

* State Papers, Finance, II., 375.

English and French goods only in vessels owned wholly by American citizens, and required that these should come directly from England and France; provided for the removal of the restrictions on the commerce of England and France when they should remove their restrictions on the commerce of the United States; and repealed the Non-intercourse Act of 1809. The proposed law was to expire on March 4, 1811.

The debate on the bill showed that both parties were in entire accord on the proposed repeal of the Non-intercourse Law. "The history of that act," John Randolph truly said, "was very extraordinary. When originally introduced not a single person had pretended that absolutely and by itself it was a good measure. During the debate upon it it had gained no friends, and yet it had passed by a two-thirds vote. During the present session it had been reprobated by everybody of all parties, in the House and out of it."

General dislike of the Non-intercourse Act.

To the Federalists that law had been an object of detestation from the beginning because of its interference with commerce. Even less than a year's experience with it had made it clear to everybody that its chief effects were to burden American commerce, and rob the custom-houses of the United States, for the benefit of smugglers and British ship-owners. One speaker said that, at the very moment he was speaking, there were a hundred British vessels at Amelia Island alone waiting to secure the

produce of the United States which was strewn along the shore, and that large contracts had been entered into by American merchants to supply British vessels with American produce.

On January 29, Macon's bill passed the House by a vote of seventy-three to fifty-two, the Republicans, for the most part, voting for it and the Federalists against it.

When the bill went to the Senate, it soon became evident that Madison had saddled himself with an incompetent Secretary of State to no purpose. As has been said, he had nominated Robert Smith instead of Gallatin to that office, in order to placate Gallatin's enemies, Samuel Smith, Giles, and Leib. But their hatred of Gallatin was too bitter to be appeased by such an act. They could see no good in Macon's bill, since Gallatin was supposed to be the author of it. Criticism was easy, of course. Against all the outrages inflicted by Great Britain—impressment of American seamen, attack on the "Chesapeake," paper blockade and Orders in Council, and against the outrages inflicted by Napoleon—Berlin, Milan, and Bayonne decrees, and arbitrary seizures not based upon any decree, this bill protested by saying, "You shall not come to our ports and carry our goods!" But after the debate on the repeal of the embargo, Smith very well knew that the question was, not whether a more vigorous protest than the one proposed by Macon's bill, but whether any protest whatever, should be made against the insults of the

Macon's bill lost in the Senate.

two robbers of Europe. A year later, when Madison asked Robert Smith's resignation, he put on record, in his account of the interview, the reasons of the Administration for supporting Macon's bill. "For examples," said Madison, "in which he [Smith] had counteracted what he himself had not disapproved in the cabinet, I referred to the bills called Macon's bills and the Non-intercourse bill, in the consultation on which he appeared to concur in their expediency; that he well knew the former, in its outline at least, had originated in the difficulty of finding measures that would prevent what Congress had solemnly protested against, to wit, a complete submission to the belligerent edicts; that the measure was considered as better than nothing, which seemed to be the alternative, and as part only of whatever else might, in the progress of the business, be found attainable."*

That Samuel Smith, at any rate, was influenced by some sort of irrational consideration it is impossible for any one who will take the trouble to read his speech in opposition to the bill to doubt. When the bill came before the Senate, he moved to amend it by striking out all its provisions except the clause that excluded British and French war-ships from American harbors. His motion passed, but the House voted down the bill as amended by the Senate, and sent it back to that body in its original form.

Samuel Smith's speech.

* Madison's Works, II., 498.

It was at this juncture that Samuel Smith made his speech. After contending that if Macon's bill were passed Great Britain would retaliate, he said: "But I have been told that if Great Britain should retaliate, her retaliation would operate as a complete non-intercourse or embargo between the two countries, and in a way that would be effectual; and that, as I had always approved these measures, this view of the subject must meet my approbation; that it would precisely create that which I have said was a powerful measure against Great Britain, to wit, an embargo. I never will agree, Mr. President, in this side way to carry into execution a great national measure."*

Comment upon such reasoning is unnecessary. Samuel Smith was not a great man. But he was certainly able enough to see that if one of the consequences of a measure of resistance was a state of things which would compel Great Britain to respect our rights, the measure was a wise one. Evidently his opposition to Macon's bill was based on personal grounds. When the vote on it was taken, it was defeated by a majority of one.

The House, in its anxiety to do something that would bear some remote resemblance to an attempt to vindicate national self-respect, passed another bill—Macon's bill No. 2, as it was called. This bill abandoned all pretence of re-

Macon's bill No. 2.

* Annals of Congress, 1809–1810, 607.

sistance, except that British and French war-vessels were still to be excluded from American waters. It removed all restrictions on commerce. But, as if to coax Great Britain and Napoleon to do what we had been unable to compel them to do, it authorized the President, "in case either Great Britain or France shall, before the third day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States," to prohibit intercourse with the other. As passed by the House, the bill provided for an increase of fifty per cent on the existing duties on all products imported from Great Britain and France. This clause, the only rational provision in the bill, the Senate struck out through the influence of Samuel Smith,—doubtless that he might weaken the treasury, since in weakening the treasury he was weakening Albert Gallatin.

When Congress passed the Non-intercourse Act as a substitute for the embargo, it had already given its approval of a report which aimed to prove that if the embargo was repealed the nation must choose between war and submission. Congress did not declare war. It passed an act which the report had shown was submission. But the act did *something*. That something did indeed inflict upon the United States an injury many times greater than that which it inflicted on England. Moreover, owing to that peculiar blindness that prevents men seeing what they do not wish to see, it served the poor purpose

Repeal of the Non-intercourse Act.

of concealing from Congress and the American people the position which the United States occupied in relation to Great Britain and France. But when the Non-intercourse Act was repealed the mask was torn off. In undisguised nakedness the hideous fact stood out that when Great Britain and France were raining upon us blows such as no powerful nation had ever submitted to before, we folded our hands and bowed our heads with no word of protest, except to say that if either one of them would cease their outrages we should resent the insults of the other. To this complexion had the policy of commercial restrictions come at last! Slowly, but surely, it was dawning upon the American people that the experience of the world could not be disregarded with impunity; that a nation that hopes to be respected must demand the respect it requires, if need be at the point of the bayonet.

Perhaps the most significant speech during this session of Congress was that of a young senator from Kentucky in support of Macon's bill No. 1. "I did not like the bill," said Henry Clay, "as sent from the House of Representatives. It was a crazy vessel, shattered and leaky; but it afforded some shelter, bad as it was. It was opposition to the aggressive edicts of the belligerents. Taken from us without a substitute, we are left defenceless, naked and exposed to the rage and violence of the storm. . . . . Your whole circle of commercial restrictions, including

Henry Clay's speech.

the Non-importation, Embargo, and Non-intercourse Acts, had in view an opposition to the offensive measures of the belligerents, so justly complained of by us. They presented *resistance*—the peaceful resistance of the law. When this is abandoned without effort, I am for resistance by the sword."*

Another noteworthy speech was that of Representative Richard M. Johnson, also from Kentucky. "My hopes have rested, and always will rest, upon the people," said he. "They constitute my last hope. We may disgrace ourselves, but the people will rise in the majesty of their strength, and the world will be interested in the spectacle."† Richard M. Johnson's speech.

One man noted the action of Congress with profound satisfaction. "Congress has adjourned," wrote Francis James Jackson, "and has completed my triumph by repealing, without any concession on our part, the famous Non-intercourse Law by which they were to coerce England and France, and for the repeal of which Erskine had agreed last year to sacrifice our Orders in Council. . . . They have covered themselves with ridicule and disgrace."‡ Jackson's comment on the repeal of the Non-intercourse Law.

* Annals of Congress, 1809–1810, 579. † Ibid., 1870.
‡ Bath Archives, Second Series, I., 116.

CHAPTER V.

ANIMATED CONFUSION.

TO the Republicans of 1810 the party creed of 1800 must have seemed like ancient history. But although they had travelled far from the creed of that time, they had not yet reached the position occupied by the Federalists in 1798. Though they had disregarded their theories of the constitution, though they had imitated the Federalists in creating what they themselves, in 1798, had denounced as a standing army without imitating them in causing our rights to be respected, they had at least laid no internal taxes, they had made no loans, and they had appropriated $8,000,000 a year to the payment of the public debt.* In April, 1810, they took one more stride towards the Federalism of 1798.

Republican theories vs. Republican practices.

The preceding chapter told of the deficit in the public treasury. That deficit was the result of two causes. On the one hand, the Non-importation, Embargo, and Non-intercourse laws had greatly reduced the revenue from customs; on the other, increased appropriations for the army and

Financial effects of the restrictive system.

* The amount appropriated by law in 1802 to the payment of the public debt was increased by $700,000 in 1804, to meet the additional obligations growing out of the Louisiana Purchase.

navy had greatly increased expenses. Jefferson's peace policy, enforcing commercial restrictions and threatening war, had reduced the receipts while it increased the expenses of the government. In 1810, therefore, Congress was under the necessity either of disbanding an army and selling the ships of a navy which it refused to use to protect the rights of the country, or of going into debt for the support of those establishments. Accordingly, on March 23, Randolph moved a resolution that they be reduced.

His speech introducing the resolution was temperate. As Gallatin had stated that an adequate reduction of the army and navy would relieve the finances, he asked the House to decide whether it would imitate the European system of loans and taxes, or whether it would reduce establishments "which, to say the best of them that could be said, were mere incumbrances. . . . Will the people of the United States," he asked, "consent to keep up expensive military and naval establishments, of the very existence of which they are ignorant, until they are made acquainted with them by burdensome taxes and a debt entailed on their prosperity—and for what?"*

Randolph's defence of a resolution to reduce the army and navy.

On April 14, the House, in committee of the whole, took up a bill which had been introduced by Eppes, chairman of the Committee of Ways and Means, impos-

* Annals of Congress, 1809–1810, 1611.

ing additional duties on goods imported into the country. In the debate on this bill, Randolph made a speech of great historical importance. He was, indeed, unable to do full justice to the subject. Little as he was troubled with questions of consistency, he could but "hobble over the subject," "manacled" as he was by his intense antagonism to the Federalist policy of 1798. He began by pointing out the nature of the question before the House. "Now, sir, one of the plainest propositions ever submitted to a legislative assembly is before this committee and the nation. It is, whether we will assent to an additional annual burden of from two and a half to three millions of dollars for the purpose of defraying the expenses of our military and naval establishments at their present extent, or reduce these establishments. We are indeed brought to a most calamitous situation if, without embargo, or non-intercourse, or war, without either of these three great national blessings, we are about to be driven to the necessity of laying an annual tax to the amount of three millions to defray the interest on loans necessary to carry on our peace establishment." He showed that the contrast between the expenditures of Jefferson's two administrations for the army and navy was almost as marked as that between those of Jefferson's first administration and the administration of John Adams. While Jefferson spent $8,600,000 during his first administration, against $18,000,000 expended by Adams, Jefferson himself, who had led the opposition to Adams'

administration on account of its unnecessary and unrepublican expenditures for the army and navy, had spent $16,000,000 for the same objects in his second administration. At this point, Randolph's opposition to the Federalist measures of 1798 prevented him from doing full justice to his subject. He did not show that while the Federalist army and navy were used to compel respect from the "terrible republic" which had already beaten the greater part of the continent of Europe, the Republican army and navy were used to so little purpose that when Jefferson went out of office the country was crouching in an attitude of humiliating submission before England and Napoleon. He pointed out that the system of increasing military and naval expenses was begun at almost the same time that the system of reducing the revenue was entered upon. "At the very moment that the revenue from our commerce had grown from twelve to seventeen millions, that was the moment in which it was deemed advisable to destroy that commerce and the revenue that depended upon it, and to go into a wide waste of military and naval expense." In concluding, he asked with irresistible force: "I want to know what duty the army of the United States has now to perform that could not have been performed by the army of the United States in any one of the first four years of Mr. Jefferson's administration, when the annual cost was not a million; and in fact the last of these four years it was only $700,000, and yet did we not derive as much substantial benefit

from it, when it cost not more than $700,000, as now, when it costs three millions?"*

Republicans support Randolph's resolution.

The absurdity of burdening the people with an army and navy that were not to be used in defending their rights was evident, and Republican after Republican denounced the policy. Said Richard M. Johnson: "I am in favor of reducing the army and navy to the lowest peace establishment, and shall not hesitate to give that vote this day upon this principle,—that Congress has refused to use the army and navy for the only legitimate purpose for which they could be increased; that is, in vindication of our rights, and in avenging the insults of France and Great Britain. The army and navy in themselves are not any resistance to foreign aggressions unless you use them. We commenced a system of resistance against our foreign enemies worthy the cause of freemen, the system of embargo and non-intercourse; and we resolved that when we abandoned the system of commercial restrictions we would resort to resistance by force. Hence the necessity of increasing the army and navy; and, under a just conviction that the honor of the nation required preparation to meet a state of war, many voted for this additional force. But we are about to abandon commercial restrictions, and we have utterly refused to use force for the purposes of protection, and still we are re-

* Annals of Congress, 1809–1810, 1830–5.

quired to keep up the army and navy. . . . Why have not the people complained of the increase of the army and navy under the last years of Mr. Jefferson's administration? Because they believed one should have been sent to the Canadas, and the other to drive smuggling vessels from our waters. . . . To our humiliation and everlasting degradation, we have refused to use the means in our power to induce foreign nations to do us justice. I will not make that melancholy situation worse by keeping an army and navy at the expense of six millions, which must drive us to the necessity of taxing the people or of increasing the debt of the Revolution."*

Johnson's speech was made April 16, 1810, in a debate on Randolph's resolution for reducing the military and naval establishments, the House sitting in committee of the whole. The same day, the resolution was carried, about two-thirds of the members present voting for it and no one against it. The next day, the House adopted the resolution by a vote of sixty to thirty-one. Every man who voted in the negative was a Republican, and two thirds of them were from Northern states.

Randolph's resolution carried.

Two committees were appointed, one to report a bill providing for the reduction of the army, the other a bill for the reduction of the navy. Three days later, Ran-

* Annals of Congress, 1809–1810, 1866–7.

dolph, the chairman of the Naval Committee, brought in a bill. All the gunboats, and all of the armed vessels with the exception of three frigates, were to be sold; the navy-yards, excepting those at Boston, New York, and Norfolk, were to be abandoned, and the marine corps was to be reduced to two companies. In the debate on the bill, it very soon appeared that, large as the majority was in favor of the reduction of the navy, there was no majority in favor of the reduction of any one branch of it. One after the other, the clauses relating to gunboats, frigates, navy-yards, and marine corps were struck out. The bill reported by Smilie for the reduction of the army was never even voted on. Evidently, as Francis James Jackson said, "they did not know what to be at," — "they were in a state of animated confusion."

Bills to reduce the army and navy defeated.

Congress adjourned May 21, 1810. "We adjourned last night," Randolph wrote to Nicholson the next day, "a little after twelve, having terminated a session of more than five months by authorizing a loan of as many millions, and — all is told. The incapacity of government has long ceased to be a laughing matter. The cabinet is all to pieces, and the two Houses have tumbled about their own ears." Randolph did not much exaggerate. Giles' resolution censuring the conduct of Jackson; the usual appropriation bills; an act authorizing a loan not greater than the sum to be applied during that year to the payment of the

"Incapacity of government."

principal of the public debt; an act providing for taking a census of the population; an appropriation of sixty thousand dollars for the Cumberland Road; the passage of the bill providing for undisguised submission to England and France — these were the chief results of the five months' session. Nor was Randolph far wrong as to the causes of the incapacity of the government. A divided cabinet, a selfish clique in the Senate, putting that body in opposition to the House of Representatives, though the Republicans had an overwhelming majority in both Houses, were certainly potent causes of the "animated confusion" which reigned at Washington. But these were not the only causes, as the proceedings of the House of Representatives in relation to the reduction of the army and navy clearly showed. The action of every department of government indicated the absence of a leader. The dominating influence of a master mind, like that exerted by Hamilton upon the Federalists between 1789 and 1799, or by Jefferson upon the Republicans during his two administrations, was wanting in the administration of Madison. The President could neither take the helm himself nor find a pilot; and when Congress adjourned in 1810, it must have seemed more than ever a question whether the ship of state was not going to be hurled upon the rocks and be destroyed.

Madison himself was hopeful. In a letter to Pinkney shortly after the adjournment of Congress, he said, referring to Macon's Law: "Among the inducements to

the experiment of an unrestricted commerce now made were two which contributed essentially to the majority of votes in its favor: first, a general hope, favored by daily accounts from England, that an adjustment of differences there, and thence in France, would render the measure safe and proper; second, a willingness in not a few to teach the advocates of an open trade, under actual circumstances, the folly, as well as degradation, of their policy. At the next meeting of Congress it will be found, according to present appearances, that instead of an adjustment with either of the belligerents, there is increased obstinacy in both; and that the inconveniences of the embargo and [of] non-intercourse have been exchanged for the greater sacrifices, as well as disgrace, resulting from a submission to the predatory systems in force. It will not be wonderful, therefore, if the passive spirit which marked the late session of Congress should at the next meeting be roused to the opposite point; more especially as the tone of the nation has never been as low as that of its representatives." *

Madison's letter to Pinkney.

The defence of Canning by the Federalists, and their sympathy with Jackson, cost them all they had won through the embargo. In the fall elections of 1809, they were beaten in Vermont; and, in the elections of the following spring, in

Federalists lose ground.

* Madison to Pinkney, May 23, 1810. Works, II., 476.

Maryland, New Jersey, and New Hampshire. In Massachusetts, the Republicans elected their candidate for governor and a majority of the members in the lower House. Connecticut alone elected a Federalist governor.

CHAPTER VI.

CADORE'S LETTER OF AUGUST 5.

THE passage of Macon's Law was, from the point of view of Napoleon, equivalent to a declaration of war against him. When that act opened the ports of the United States to the commerce of England, he was covering the coasts of Europe with armies for the purpose of excluding that commerce from the Continent. The peace with Austria left him without an avowed enemy in Europe outside of England and the Spanish Peninsula, and enabled him to employ his vast resources in conquering Spain and compelling Holland, Sweden, Prussia, Denmark, and Russia to choose between certain ruin by submitting to the enforcement of his Continental System, and risking the chances of war by daring to oppose his will.

Effect of Macon's Law upon Napoleon.

He ordered his agents in the Hanse towns to seize the American vessels there on the pretence that they were English ships in disguise. He compelled Denmark and Prussia to agree to confiscate all the American ships that entered their ports. He dethroned his brother Louis for refusing to seize the American ships that entered the ports of Holland. He told the Swedish minister that

Napoleon's efforts to enforce his Continental System.

he would make war on Sweden if the Swedish regent did not enforce the blockade. He annexed to his empire the Valais, a part of Hanover, the duchies of Lauenburg and Oldenburg, and the entire coast from the Ems to the Elbe (December, 1810), assigning as his reason, "The English have torn asunder the public rights of Europe; a new order of things governs the universe." *

He wrote to the Czar of Russia (October, 1810) urging in the most importunate terms the seizure of six hundred vessels in the Baltic, neutrals as well as English; and when Alexander refused, Napoleon replied: "There are no neutrals; they are all English, disguised under various flags and bearing false papers. They must be confiscated and England will be destroyed." † And he began to push more actively than ever his preparations for the war that was to compel Russia to shut her ports to the commerce of the world in order to destroy England.

It was when Napoleon was making such efforts as these, when he was "overturning the world" to destroy England by closing the ports of Europe to her commerce, that the news reached him that the United States had opened the ports of America to the ships of England. It mattered not to him that the same law that admitted British ships admitted those of France. To France, who had scarcely a frigate at sea, the law was of no value; to

* Lanprey's History of Napoleon, III., 342. † Ibid., 340.

England, when her enemy was making such tremendous efforts to destroy her, it was of vital importance.

But powerful as Napoleon was, his arm was not long enough to reach across the Atlantic, and he knew that a formal declaration of war against the United States would be an empty threat, since he had in effect been making war upon this country since 1807, when he took the first step by enforcing the Berlin Decree against American vessels; and subsequently the second, third, and fourth, by issuing the Milan, Bayonne, and Rambouillet decrees. These decrees nearly exhausted the means of hostility at the command of Napoleon against the United States, since its only vulnerable point was its commerce.

Why Napoleon did not declare war against the United States.

With his supreme regard for facts and contempt for mere forms, he probably considered himself at war with the United States, if indeed he did not consider it a conquered country. On July 5, 1810, he estimated his income for the coming year, and side by side with the war contributions required from conquered countries were the following items: American cargoes confiscated at Antwerp, two million dollars; in Holland, two million four hundred thousand dollars; in Spain, one million six hundred thousand dollars. These large sums, to say nothing of confiscations in other countries under his control, he probably regarded as war contributions levied upon a conquered country. As he was already waging

all the war he could against the United States, what reply could he make to Macon's Law?

He received a copy of the law about the last of June. If he had been of the temper of the men who then ruled this country, he would have attempted to overwhelm the American minister with arguments to show the injustice of such concessions to England. But academic disputations, words that did not betoken deeds, were not to his taste. As well foam and fume at the English Channel that prevented him from invading England, as quarrel about the law that warded off the blows he was aiming at his enemy.

Napoleon's reply to Macon's Law.

For more than a month he was undecided. At last, three weeks after he had annexed Holland, he made up his mind.

After drafting and revising a letter with the utmost care, he dictated it to Champagny—whom he had made Duke of Cadore—and the latter sent it to Armstrong August 5, 1810. This letter proved to be a turning-point in American history. Furious though Napoleon was with the American government for passing a law which went so far towards shivering his Continental System into fragments, he pretended to regard it as a concession to France, as an act of friendliness on the part of the United States!

After approving the embargo, Cadore denounced the Non-intercourse Act as a measure the most injurious to

the interests of France, and declared that "the sequestration of all the American vessels in France has been the necessary consequence of it. Now Congress retrace their steps. They revoke the Act of the 1st of March; the ports of America are open to French commerce, and France is no longer interdicted to the Americans; in short, Congress engages to oppose itself to that one of the belligerent powers which shall refuse to acknowledge the rights of neutrals. In this new state of things, I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being understood that, in consequence of this declaration, the English shall revoke their Orders in Council and renounce the new principles of blockade which they have wished to establish; or that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English." As though the hostility of the United States had been the only cause which had prevented Napoleon from revoking his decrees!

Cadore's letter.

This letter was evidently modelled upon the note which Erskine wrote to Robert Smith on April 19, 1809. Erskine had said: "*In consequence* of the acceptance by the President of the proposals made by me, . . . I am authorized to declare that his Majesty's Orders in Council will have been withdrawn as respects the United States on the 10th day of June next." Cadore said:

"I am authorized to declare that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; *it being understood that in consequence of this declaration,"* etc. As Madison's proclamation renewing intercourse with Great Britain, in accordance with the provisions of the Non-intercourse Act, was based on the assurance of the British minister that the orders would be withdrawn, Napoleon hoped that his assertion that his decrees would be withdrawn on the 1st of November would evoke another proclamation.

The letter concluded with a paragraph which showed how low was the estimate which Napoleon placed upon the American government: "It is with the most particular satisfaction, sir, that I make known to you this determination of the Emperor. His Majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy. The independence of America is one of the principal titles of glory to France. Since that epoch, the Emperor is pleased in aggrandizing the United States, and, under all circumstances, that which can contribute to the independence, to the prosperity, and to the liberty of the Americans the Emperor will consider as conformable with the interests of his empire."*

Napoleon's love (?) for America.

* State Papers, III., 386.

How the sardonic nature of the Man of Destiny shines forth in his directions to his minister! As John Quincy Adams once prayed that his country might be delivered from the compassions of the English, so the Americans might have prayed to be delivered from the love of Napoleon.

On that same 5th of August, the very day that Cadore wrote that American vessels with their cargoes which had come into the ports of France and her allies after the passage of the Non-intercourse Act, and before the passage of Macon's Law, had been *sequestered* (by which term he meant that they were to be made a subject of discussion and negotiation and might be returned to their owners), Napoleon issued a secret decree *confiscating* this property without trial, and ordering that until November American vessels should be allowed to enter French ports, but not to depart without special permission from himself. He graciously condescended to say that the American sailors who had been held as prisoners—at a time of peace, be it remembered, between the two countries—should be released.

The Trianon decree.

In 1821, Gallatin (who was then minister to France) accidentally discovered this decree and sent a copy of it to the American government, accompanying it with a letter in which he said: "The enclosed copy of a decree dated at Trianon on the 5th of August, 1810, which has never been pub-

Gallatin's comment upon it.

lished, nor, to my knowledge, communicated to our ministers or government, was obtained through a private channel. . . . It bears date the same day on which it was officially communicated to our minister that the Berlin and Milan decrees would be revoked on the first day of the ensuing November; and no one can suppose that if it had been communicated or published at the same time, the United States would, with respect to the promised revocation of the Berlin and Milan decrees, have taken that ground which ultimately led to the war with Great Britain. It is indeed unnecessary to comment on such a glaring act of combined injustice, bad faith, and meanness as the enacting and concealment of that decree exhibits."* Certainly not. But one would be glad to know whether, apart from this decree, Gallatin thought the United States had any reason to trust the word of Napoleon. The latter's remark to Metternich, "What care I for the lives of a million men? Human life be damned!" had not then been made. But what act in his career indicates that honor, truth, generosity, mercy, any of the motives that differentiate civilized man from the savage, had any influence with him when they stood in the way of his personal interests?

Besides, the intention to deceive was revealed in every line of Cadore's letter. The decrees *are now* revoked, and the revocation *will hereafter* take effect—

* Gallatin's Works, II., 197.

on condition that England or the United States do some definite and specific thing? No: that England revoke its Orders in Council and renounce the new principles of blockade, etc., or that the United States cause its rights to be respected by the English. But what were the "new principles of blockade"?

According to Napoleon, there could be no right of blockade to "ports not fortified, to harbors and mouths of rivers, which, according to reason and the usage of civilized nations, is applicable only to strong or fortified places." And in order that these might be truly blockaded, "they must be invested by *land* and sea. . . . It is only then that the right of preventing neutral vessels from entering it exists."* How easily Napoleon could have conquered England if he could only have prevailed upon the British government to accept his interpretation of its rights!

And what were the rights of the United States which were being violated by England? On July 24, 1809, Armstrong had written to Robert Smith: "When we speak of illegal search, we mean that which claims the right of impressment also; but according to the imperial decrees and their commentators, the offence is equally great whatever may be the object of the visit,— whether it be to demand half your crew, or to ascertain only the port from which you sailed, the nature of your

* State Papers, III., 325.

cargo, or the character of your flag."* Manifestly, in order that the American government might compel Great Britain to respect what Napoleon chose to regard as the rights of the United States, it must compel the British government to take his arbitrary will as the measure of the rights of England. The Administration might, if it chose, accept Cadore's letter as equivalent to a repeal of the Berlin and Milan decrees. But to accept such a promise from Napoleon as complying with the conditions required by Macon's Law was surely to expose the country to serious hazard.

* MS. State Department Archives: Henry Adams, V., 145.

CHAPTER VII.

MADISON'S REPLY TO CADORE'S LETTER.

MADISON seems to have had a proper appreciation of Napoleon's piracies. In an official letter to Armstrong, June 5, 1810, enclosing a copy of Macon's Law, Robert Smith said: "I cannot forbear informing you that a high indignation is felt by the President, as well as by the public, at this act of violence on our property [the confiscations ordered by the Rambouillet Decree], and at the outrage both in the language and the matter of the letter of the Duke of Cadore, so justly portrayed to him in your note of the 10th of March." After calling attention to the provisions made by Macon's Law for the prohibition, on certain conditions, of intercourse with Great Britain, the letter continued: "If, however, the arrangement contemplated by the law should be acceptable to the French government, you will understand it to be the purpose of the President not to proceed in giving it effect in case the late seizure of the property of the citizens of the United States has been followed by an absolute confiscation, and restoration be finally refused. The only ground, short of a preliminary restoration of the property, on which the contemplated arrangement can be made will be an understanding that the confisca-

Madison's instructions to Armstrong.

tion is reversible, and that it will become immediately the subject of discussion with a reasonable prospect of justice to our injured citizens." * In a letter to Armstrong a month later, Smith repeated this idea with even more emphasis. "As has been heretofore stated to you, a satisfactory provision for restoring the property lately surprised and seized must be combined with a repeal of the French edicts, with a view to a non-intercourse with Great Britain; such a provision being an indisputable evidence of the just purpose of France towards the United States." †

But this "indisputable evidence" was not given by Cadore's letter, which contained nothing about the Rambouillet Decree. Napoleon did not even promise to withdraw his Berlin and Milan decrees in the sense required by Macon's Law. The fourth section of that law declared: "In case either Great Britain or France shall, before the third day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States," the President shall announce the fact by proclamation; and if the other nation does not likewise, within three months thereafter, revoke or modify its edicts, the provisions of the Non-intercourse Act of March 1, 1809, shall at once revive against it. This section authorized, not the proclamation of a promise,

Cadore's letter and Macon's Law.

* State Papers, III., 384. † Ibid., 385.

but of a fact. In case either Great Britain or France did actually so modify her edicts that they ceased to violate the neutral commerce of the United States, the President was in duty bound to proclaim it.

But Cadore's letter did not even promise the repeal of the Berlin and Milan decrees unconditionally. It declared that these decrees would cease to have effect after the 1st of November on one of two conditions: either England must revoke its orders and renounce its new principles of blockade, or the United States must cause its rights to be respected by England. If neither of these things had been done,—especially if not done in a way to satisfy Napoleon,—he was in no wise bound by the letter of his minister.

Madison's proclamation.

Ignoring all this; ignoring his own emphatic assertion that he would require the restoration of the property seized under the Rambouillet Decree as an indispensable evidence of the just purpose of Napoleon towards the United States; ignoring the fact that the proclamation provided for by Macon's Law was to be the *effect,* not the cause, of the friendly action of France or England; ignoring the fact that the terms in which Napoleon made his conditional promise were so vague that they might mean anything or nothing according to his purpose, Madison decided to regard Cadore's letter as a fulfilment of the condition required by Macon's Law. On November 2, he issued a proclamation declaring that the edicts of France had

been so revoked as that they had ceased, the preceding day, to violate the neutral commerce of the United States.

How uncertain Madison felt of his ground is shown by a letter written by Robert Smith to Armstrong the day the proclamation was issued. "You will let the French government understand," said Smith, that the proclamation has been issued "*on the ground* that the repeal of these decrees *does involve* an extinguishment of all the edicts of France *actually* violating our neutral rights." What was this but admitting that the proclamation asserted what was not known to be true? France has repealed the decrees that violated the neutral commerce of the United States, says Madison. Madison has declared that France has repealed the decrees that violated the neutral commerce of the United States, says his secretary, on the *assumption* that the repeal of the Berlin and Milan decrees, of which alone Cadore made mention, does involve an extinguishment of all the anti-neutral decrees of Napoleon — an assumption which Madison did not *know* to be true, which he was far from being sure was true!

Smith's letter to Armstrong in regard to the proclamation.

On the ground also, continued Smith, "that the reservations under the expression 'it being understood' are not conditions precedent, affecting the operation of the repeal." But did not Napoleon in Cadore's letter definitely make the repeal of his Berlin and Milan decrees dependent on one or the other of two conditions?

And whether he did or not, does not the passage just quoted show that Madison was at least in doubt as to whether he did, in spite of the fact that he had just proclaimed the repeal of the anti-neutral French decrees?

"And on the ground also," Smith went on, "that the United States are not pledged against the blockades of Great Britain beyond what is stated in my letter to you of the 5th of July." * This sentence shows that Madison realized his danger. For, notwithstanding the vagueness of the terms in which Napoleon had expressed his promise, Madison nevertheless endeavored to give the language of that master of dissimulation a strict interpretation.

"It is to be remarked, moreover," continued the letter, "that in issuing the proclamation *it has been presumed* † that the requisition contained in that letter, on the subject of the sequestered property, will have been satisfied."‡ Here another presumption, precarious enough and utterly without warrant, is substituted for a fact. In July, Madison says he cannot regard the French

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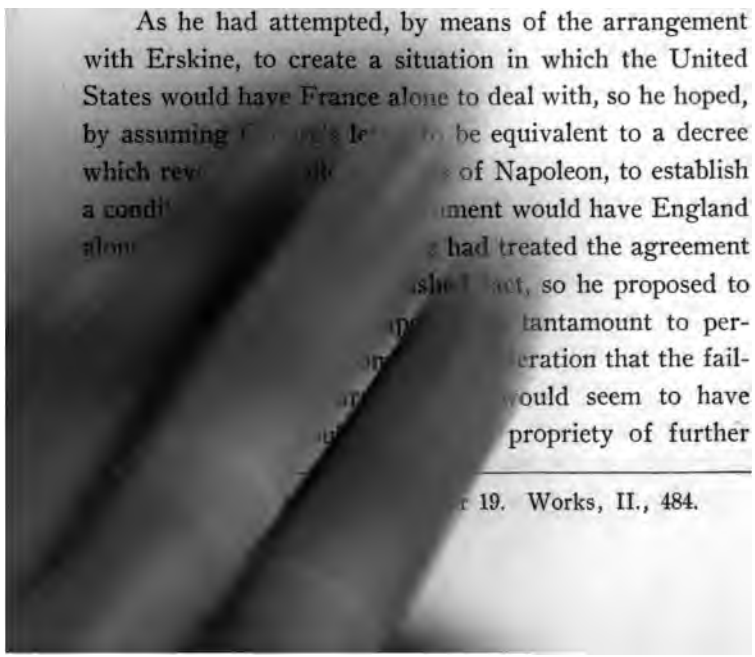
* In that letter Armstrong was directed to say that in case France complied with the conditions of Macon's Law, non-intercourse would be renewed against Great Britain unless the British government repealed all its illegal blockades "of a date prior to the Berlin Decree." But the American government was to proceed against blockades of a subsequent date in any manner it might choose to adopt.—State Papers, III., 385.

† Italics not in the original.

‡ State Papers, III., 389.

anti-neutral edicts as revoked unless the property seized in accordance with the Rambouillet Decree is restored. In November, he asserts that the anti-neutral decrees of France are revoked because he "presumes" that the sequestered property has been restored. Why did he not presume that the Rambouillet Decree had never been issued, and that Napoleon was a modern Marcus Aurelius with no purpose in life except to promote the happiness of mankind?

Madison's reasons for his course were given in a letter to Jefferson: "We hope from the step [the proclamation] the advantage at least of having but one contest on our hands at a time."* Madison's reasons.



As he had attempted, by means of the arrangement with Erskine, to create a situation in which the United States would have France alone to deal with, so he hoped, by assuming [illegible] to be equivalent to a decree which rev[illegible] of Napoleon, to establish a condi[illegible]ment would have England alon[illegible] had treated the agreement [illegible]ct, so he proposed to [illegible]tantamount to per-[illegible]eration that the fail-[illegible]ould seem to have [illegible] propriety of further

[illegible] 19. Works, II., 484.

experiments in that direction, there were other reasons which ought to have made him hesitate. Had he forgotten the charges of French influence so fiercely brought against Jefferson in connection with the embargo? If he allowed himself to be duped by Napoleon, might not the Federalists overwhelm him and his administration with a storm of indignation and expose the country to serious dangers? Would it be wise to risk pushing the Federalists of New England to the brink of disunion? A continuation of the robberies of England and Napoleon would mean nothing more than a continuation of the privations and humiliations of which we had already had so much experience; the disloyalty of Federalist New England might mean the termination of our existence as a nation. Besides, there was a marked difference between the undertaking of Erskine and the promises of Cadore. Erskine offered, in behalf of his government, to withdraw unconditionally the anti-neutral British orders on the ground of something that had already been done; Cadore promised, in behalf of Napoleon, to withdraw the French decrees if one or the other of two indefinite things should thereafter be done.

The letter to Jefferson showed that Madison was considering another questionable exercise of executive power. "The crisis in West Florida," he said, "as you will see, has come home to our feelings and interests. It presents at the same time serious questions as to the authority of the executive, and the adequacy of the exist-

ing laws of the United States for territorial administration. And the near approach of Congress might subject any intermediate interposition of the executive to the charge of being premature and disrespectful, if not of being illegal. Still, there is great weight in the consideration that the country to the Perdido, being our own, may fairly be taken possession of, if it can be done without violence; above all, if there be danger of its passing into the hands of a third and dangerous party. . . . From present appearances, our occupancy of West Florida would be resented by Spain, by England, and by France, and bring on not a triangular but a quadrangular contest." Occupancy of West Florida.

The meaning of which was that Madison saw an opportunity to seize West Florida with impunity, and he was considering the question of doing it in spite of the fact that there were serious questions as to his authority. The attempt of Napoleon to seat his brother Joseph on the throne of Spain had been followed by insurrection and revolt in a large number of the provinces of the Spanish empire. Early in 1810, under English influence, the people of Buenos Ayres rebelled and drove out of the country the viceroy appointed by the Supreme Junta of Spain. Caracas, Venezuela, New Granada, and Mexico quickly followed their example. In September, the Americans who had settled in West Florida, taught by Buenos Ayres and Venezuela that the Spaniards, who were wrestling in a life-and-death struggle with Napo-

leon, were powerless to enforce their authority in the Spanish empire, held a convention, and issued a declaration of independence on behalf of the people of West Florida.

Two weeks later, the president of the convention was authorized to write to Robert Smith urging the immediate annexation of the territory, "since our weak and unprotected situation will oblige us to look to some foreign government for support should it be refused us by the country which we have considered as our parent state."*

Congress and West Florida.

That the American government should desire to possess West Florida was natural. Its proximity to New Orleans made its acquisition well-nigh imperative. Moreover there was nothing to prevent Congress from passing a law authorizing Madison to take possession of it, *provided it really belonged to the United States.* Whether it did or not was a question between the United States and Spain. But if Congress chose to regard the claim of the American government to it as well founded, the question as to whether it should authorize the President to take possession of it was one of expediency only.

Madison and West Florida.

With Madison the case was different. However clear he might be as to the right of the United States to the territory, and as to the expediency of asserting that right, his hands were tied by the constitution until Congress passed a

* State Papers, III., 395, 396.

law. The constitution required him not to make laws, but to execute them. In spite of this, in spite of his own admission that there were serious questions as to his authority, in spite of his perception of the nature of the criticism to which any "intermediate interposition" on his part would subject him because of the near approach of Congress, he issued a proclamation on October 27, 1810, only five weeks before Congress met, declaring that Claiborne, the governor of the Orleans territory, would take possession of it. The same day Robert Smith wrote a letter to Claiborne ordering him to take possession of it, and, in case he should be opposed by force, to call on the commanding officer of the regular troops on the Mississippi for the necessary aid.

The proclamation stated that in the hands of the United States the territory would not "cease to be a subject of fair and friendly negotiation and adjustment." In his message to Congress, after narrating the circumstances that led to the proclamation, Madison said: "The legality and necessity of the course pursued assure me of the favorable light in which it will present itself to the legislature, and of the promptitude with which they will supply whatever provisions may be due to the essential rights and equitable interests of the people thus brought into the bosom of the American family." * Madison's proclamation.

* Annals of Congress, 1810–1811, III., 12.

J. P. Morier, the British *chargé d'affaires*,—whose government was pursuing the same course throughout South America,—protested. "Would it not have been worthy of the generosity of a free nation like this," said Morier, "bearing, as it doubtless does, a respect for the rights of a gallant people at this moment engaged in a noble struggle for its liberty, to have simply offered its assistance to crush the common enemy of both, rather than to have made such interference the pretext for wresting a province from a friendly power, and that in the time of adversity? For, allow me, sir, to inquire how can the declaration in the President's proclamation 'that in the hands of the United States that territory will not cease to be a subject of fair and friendly adjustment' be made to accord with the declaration in his message to Congress 'of the adoption of that people into the bosom of the American family'?"*

Morier's protest.

In a letter to Pinkney (October 30, 1810) Madison said: "With respect to Spanish America generally, you will find that Great Britain is engaged in the most eager and, if without the concurrence of the Spanish authorities at Cadiz, the most reproachful grasp of political influence and commercial preference."†

Madison's letter to Pinkney.

What a comedy! Madison reproaching England with her intriguing in Spanish America; England pro-

* State Papers, III., 399. † Wheaton's Pinkney, 451.

testing against Madison's occupancy of West Florida! That nothing might be wanting to make it complete, Napoleon should have protested against the outrages of both!

CHAPTER VIII.

THE FLORIDAS.

THE Congress which met December 3, 1810, was burdened with grave responsibilities. By a more than doubtful exercise of power, Madison had declared that France had repealed all the acts which violated the neutral commerce of the United States in the sense required by Macon's Law, and that unless Great Britain followed the example of France non-intercourse would revive against England on the 2d of the following February. Without the warrant of law, he had ordered the occupancy of West Florida, and authorized, in certain contingencies, hostilities with a friendly power. Would Congress sustain this arbitrary exercise of executive power? Would the party that under the leadership of Madison and Jefferson had been so fearful lest Washington should overstep the boundaries marked out for him by the constitution permit Madison, without rebuke, to act on his own mere will and pleasure? Would it permit him to drive the Federalists of New England to the point of revolution by discriminating against England in favor of France? Would it permit the President to authorize hostilities with Spain because the Spanish government was exhausting

Questions before Congress.

its resources in the attempt to defend the right of self-government against Napoleon?

Momentous as these questions were, they were not more important than another with which Congress was obliged to deal. The charter of the National Bank expired March 4, 1811. The party founded and led for so many years by Jefferson — who in 1791 had declared with such emphasis that Congress had no right to incorporate a national bank — had to decide whether it would do violence to its theories of the constitution, or whether it would disarrange the finances of the country and diminish the resources of the government at a time when the danger of war with England was daily becoming more imminent. The National Bank.

It ought to have been evident from every point of view that each of these questions should be decided with reference to the others. If the Republicans intended to follow the traditions of the party, the disavowal of Madison's proclamations and the refusal to recharter the Bank were matters of course. The party that criticised Washington's neutrality proclamation in 1793 could not hesitate, if it meant to be consistent, as to the course to be pursued in relation to the proclamations of Madison in 1810. Need of a systematic policy.

Moreover, expediency pointed out the same course. If Madison was disavowed and the Bank was not rechartered, the dangers of war and the resources of the government would be diminished simultaneously. But if he

was not disavowed,— if Congress permitted him to antagonize England by ordering the occupancy of the territory of her ally, if it permitted him to involve the country in still greater difficulties with her by demanding the abandonment of her anti-neutral system on the ground that Napoleon had repealed his decrees, and if, at the same time, it refused to recharter the Bank,— it was at once to incur the dangers of war and diminish the power of the government to wage it. But precisely this was done. Through the influence of inconsistent motives the government took one course which led straight to war, and another which led with equal directness to a dissipation of its resources.

West Florida was the first of the three matters to receive the attention of Congress. On December 18, Senator Giles reported a bill providing that the territory of Orleans — one of the two territories into which the Louisiana Purchase had been divided — should be declared to include West Florida. In the debate upon this bill Horsey of Delaware argued in behalf of the Federalists that Madison had no right to issue his West Florida proclamation; that it was issued upon his own mere will and pleasure. Clay's reply could hardly have seemed satisfactory even to the Republicans, although it was the best that the case admitted of. He found the warrant for Madison's proclamation in the Act of October, 1803, which authorized

Giles' bill.

Horsey's speech and Clay's reply.

the President to occupy the territory ceded by France in the April preceding. But did a law authorizing the occupancy of the territory *actually ceded* authorize the seizure of a territory merely *claimed* by the United States, and that, too, by a President who had admitted that if "our right to West Florida be good against Spain at all, it must be supported by those rigid maxims of technical law which have little weight in national questions generally, and none at all when opposed to the principles of universal equity"? And if the law of 1803 authorized the seizure of West Florida, why did the government wait till Spain was an ally of England to seize it? Unwilling to admit either that Madison had ordered the occupancy of West Florida without the warrant of law, or that the fear of Napoleon had compelled the government to wait seven years before occupying a territory that belonged to the United States, the Senate decided not to push Giles' bill to a vote.

Criticism of Clay's speech.

The House showed itself equally unable to deal with the question. On December 27, Macon introduced a bill providing for the admission of the Orleans territory, including West Florida, as a state. But Bibb of Georgia, himself a Republican, asked how Madison's statement that the title to West Florida would be subject to negotiation could be made good if it became a state. On January 9, the bill was amended so as to provide that West

Action of the House.

Florida should not form a part of the Orleans territory. The next day, Wright reported a bill for the protection and government of West Florida. But the committee to which it was referred never reported it. Neither the Senate nor the House of Representatives would say whether West Florida belonged or did not belong to the United States.

In the mean time, the agents of the President were obeying the orders he had issued in connection with his proclamation of October 27. Claiborne, the governor of the Orleans territory, was in Washington when the proclamation was issued. In obedience to Madison's orders, he hastened with all speed to West Florida, where he arrived the latter part of November. The districts west of the Pearl River had assumed the garb of statehood and elected a governor, Fulwar Skipwith. This governor did not look kindly upon Claiborne, who was scattering copies of Madison's proclamation over the territory, and for a time it looked as if there might be hostilities between the soldiers of the United States under Claiborne and the garrison of the fort at Baton Rouge under Skipwith. This danger was averted by the surrender of the fort. But Claiborne did not advance beyond the Pearl River. He organized the districts west of that river as a part of the Orleans territory, and endeavored to persuade the Spanish Governor Folch to deliver up the territory between the Pearl and the Perdido. On December 2, Folch

Claiborne sent to West Florida.

wrote to Robert Smith saying that he had decided, in certain contingencies, to deliver the province to the United States before the first of January.

As soon as Robert Smith received this letter, Madison sent a confidential message to Congress asking authority to take possession of East Florida. "Taking into consideration the relation of the country adjoining the United States eastward of the river Perdido to their security and tranquillity," he said, "I recommend the expediency of authorizing the executive to take temporary possession of any part or parts of said territory, in pursuance of arrangements which may be desired by the Spanish authorities." He also recommended Congress to provide not merely for the event of a subversion of the authority of Spain in East Florida, but for an apprehended occupancy of it by any foreign power.* On January 15, 1811, Congress passed an Act in secret session authorizing the President to take possession of East Florida if the local authorities should consent, or if an attempt should be made by any foreign power to occupy it. This law, as we shall see, was used by Madison as another pretext for illegal invasions of the rights of Spain.

East Florida.

Macon's bill, providing for the admission of the Orleans territory as a state, under the name of Louisi-

* State Papers, III., 394.

ana, involved another question of far greater significance than the approbation by Congress of Madison's arbitrary seizure of West Florida. That question was the right of the American government to admit new states into the Union out of territory not in possession of the United States when the constitution was adopted. It was in debating this question that Quincy uttered the sentence, so often quoted, containing the first open threat of secession ever made in Congress: "If this bill passes, it is my deliberate opinion that it is virtually a dissolution of this Union; that it will free the states from their moral obligation, and as it will be the right of all, so it will be the duty of some, definitely to prepare for a separation, amicably if they can, violently if they must."* The Speaker decided that he was out of order. But by a vote of fifty-six to fifty-three the House reversed the decision. Quincy's position was the same that Jefferson had taken,—that the constitution did not authorize Congress to "include England, Ireland, Holland, etc.," in American territory. But his arguments were unavailing. By the same "logic of facts" which had so often compelled the Republicans to trample upon their theories of the constitution, they were compelled to take the ground that the general government could acquire what territory it pleased, and, by the "logic of principle," to as-

Orleans territory admitted as a state.

* Annals of Congress, 1810-1811, 525.

sume that the territory so acquired was "assimilated" to the original territory of the United States. Before the purchase of Louisiana they had been obliged to choose between violating their theories of the constitution and foregoing a great good for the people. After the acquisition of the territory they had been obliged to choose between putting it on a totally different basis from that of the original territory of the United States —i. e., governing it as a colony which could never attain to statehood—and treating it as in all respects like the original territory, admitting parts of it into the Union as states as fast as circumstances warranted.

Either horn of the dilemma would ultimately have proved fatal to the doctrine of state sovereignty. If the Republicans had been such doctrinaires as to forget their democracy in their devotion to state sovereignty, if they had been able to forget that their sons and brothers and neighbors had the same right to life, liberty, and the pursuit of happiness after their emigration to Louisiana that they had before, they would have sacrificed their democracy to no purpose. The imperial powers which the government at Washington would have been compelled to assume in governing such a vast colony as the Louisiana territory—soon to have a population far in excess of that of the original thirteen states at the time of the adoption of the constitution—would have made the doctrine of state sovereignty ridiculous.

On the other hand there was nothing absurd, on the face of it, in Virginia's supposing that the general government was in part her creature and her agent. Before the government at Washington was, Virginia was. In co-operation with certain states, Virginia had called it into being and delegated to it certain powers. The same power that had given could take away; the same power that had created could destroy. But for a state admitted into the Union out of the Louisiana territory to take that ground would be unnatural. Such a state would owe its existence three times over to the general government: it was a part of the United States because that government had bought it; it had been organized into a territory because that government had willed it; it had been admitted as a state because that government had allowed it. For such a state to turn upon the general government and say, "You are my agent; I have created you," would be to show the spirit of a parricide.

When, then, the Republicans passed the bill which provided for the admission of Louisiana, they began to call into existence a power which was sure to destroy, or at least endanger, their basal principle of state sovereignty. Peculiar circumstances might, indeed, teach a state admitted out of the territory acquired from France, as peculiar circumstances afterwards did teach Louisiana, to believe the doctrine of state sovereignty. But left to develop in a natural, healthy way, the states

admitted out of the Louisiana territory would be certain to believe that they owed their existence as states of the American Union to the will of the sovereign American nation as expressed by the only representative of that nation—the government at Washington.

Quincy realized the gravity of the question. And though the passage of the bill did not prove to be, as he declared, "a death-blow to the constitution," his prediction that the position he advocated would one day be acknowledged as "a high constitutional bulwark" has already been fulfilled. The passage of that bill meant that the states of the American Union might one day include the whole of North and South America, the West India Islands, an indefinite number of islands in the Pacific—might include as much territory as the government saw fit to annex, provided it was able to enforce its will.

As the bill passed the House, it authorized a convention to frame a state constitution, the delegates to which were to be chosen by the free male tax-paying citizens of the United States who resided in the territory. The Senate amended the bill by providing that those tax-paying citizens should be white. The House at first refused to concur, but, as the Senate insisted, finally yielded.

The legislative and executive measures in relation to West Florida were a singular jumble of inconsistencies. Though Claiborne, in obedience to Madison,

had organized the provinces west of Pearl River as a part of the Orleans territory, Congress passed and Madison signed a bill providing for the admission of that territory without those provinces as a state. The provinces west of Pearl River were a part of the Orleans territory until that territory was admitted as the state of Louisiana; after that there was no law to determine what their status was; until further laws were passed, they were without government.

Measures relating to West Florida.

In relation to the Bank the Republicans were consistent. But it was hostility to Gallatin, combined with the influence of selfish interests, that made them consistent. On the 3d of March, 1809, Gallatin had submitted a report in which he enumerated the advantages accruing to the government from the Bank. After pointing out its usefulness for the collection of the revenues and the safekeeping and transmission of the public moneys, he called attention to its convenience to the government in making loans. He said that at one time its loans to the government amounted to $6,200,000. Speaking of the objection to the renewal of the charter, he wrote: "The strongest objection against the renewal of the charter seems to arise from the great portion of the Bank held by foreigners—not on account of any influence it gives them over the institution, since they have no vote, but of the high rate of interest payable by Americans to

Gallatin on the National Bank.

foreign countries on the portion thus held. If the charter is not renewed, the principal of that portion, amounting to about $7,200,000, must at once be remitted abroad; but if the charter is renewed, dividends equal to an interest of about eight and one-half per cent a year must be annually remitted in the same manner. The renewal of the charter will, in that respect, operate, in a national point of view, as a foreign loan bearing an interest of eight and one-half per cent a year." He recommended that the Bank should be rechartered on three conditions: that it should pay interest to the United States on the public deposits when they should exceed a certain sum; that it should be bound, whenever required, to lend to the United States three fifths of its capital; and that its capital should be increased to $30,000,000.

A bill was introduced following the outline of Gallatin's recommendations, but Congress adjourned without taking any definite action upon it.

On December 18, shortly after the Eleventh Congress met for its third session, a petition of the president and directors of the Bank was referred to a committee which asked Gallatin to state his opinion of the value of the Bank for national purposes. In addition to the reasons stated in the report made in the preceding session of Congress, Gallatin showed that a transition from a national bank to state banks would be a dangerous experiment. The Bank in that event would have to withdraw its notes, amounting to about $5,000,000,

from circulation, and require the merchants to meet their obligations to it, amounting to $14,100,000 more—which could not be done in the then unfavorable state of American commerce "without giving a serious shock to commercial, banking, and national credit."

But arguments were unavailing to break down the phalanx arrayed against the Bank. Those who were loyal to "old Republican" principles—the opponents of the Bank on constitutional grounds, and on the ground that it tended to create a strong central government—were reinforced by Gallatin's personal enemies and the representatives of the selfish interests that hoped to profit by its dissolution. In view of the strength of those interests, the remarkable thing is that it received as much support as it did. Though there were but three state banks in 1791, in 1810 there were more than one hundred.

Opponents of the National Bank.

From the point of view of the friends of the state banks, the important question was how to transfer to the pockets of the stockholders of state banks the dividends which, if the Bank continued to exist, would be paid in large part to British stockholders.* But, with all these interests against it, when the bill came to a vote in the House it was lost by a single vote. The decision was reached January 24.

* The friends of the Bank predicted that its destruction would unduly stimulate the increase in the number of state banks. "The banks established by the state legislatures," said

The debate in the Senate was noteworthy for the grounds upon which the Bank was defended by a Republican senator from Georgia, William Harris Crawford. With force and ability such as would have been satisfactory to Alexander Hamilton, he defended the constitutionality of the Bank on the ground of Hamilton's doctrine of implied powers. Speaking of the instruction of a number of state legislatures to their senators to vote against the Bank, he asked, "What is the inducement with these great states to put down the Bank of the United States? Their avarice. . . . The great commercial states wish to monopolize the benefits which are to arise from the deposits of public money. The suppression of this bank will benefit none of the interior or smaller states in which there is little or no revenue collected." He showed that the Republican party had made some progress towards nationality when he, a Republican, argued in favor of the Bank on the ground that the defeat of it would tend to unduly strengthen the great states. "As the whole benefit is to be engrossed by three or four of the great Atlantic states, so the whole of the power which the

Crawford's speech in defence of the Bank.

Jonathan Fiske of New York, "will scramble for the privilege of filling the chasm to be made by the destruction of the Bank of the United States. Already are they preparing for the patriotic endeavor. Our state legislatures are to be importuned to become bank-jobbers and copartners in the enterprise."—Annals of Congress, 1810–1811, 612.

dissolution of this Bank will take from the national government will be exclusively monopolized by the same states."*

The reply of Henry Clay, in view of his subsequent career, is interesting: "It is said that there are cases in which the government must act on implied powers. This is not controverted. But the implication must be necessary, and flow from the enumerated powers with which it is allied. The power to charter companies is not specified in the grant and, I contend, is of a nature not transferable by mere implication. It is one of the most exalted attributes of sovereignty."†

Clay's reply.

On February 20, the bill came to a vote. Seventeen senators voted for the recharter, and seventeen against it. The Senate being equally divided, it became the duty of the Vice-President to decide the question. Clinton voted against the recharter on constitutional grounds.

Vote on the Bank bill.

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* Annals of Congress, 1810–1811, 143. The first paragraph of the instructions given by the legislature of Pennsylvania to the senators from that state to vote against the recharter of the Bank showed how extensively the poison of the Kentucky Resolutions of 1798 was circulating through the body politic. The act of union, it stated, was, "to all intents and purposes, a treaty between sovereign states." The general government was not made the final judge of its powers; "for if it were so to judge, then its judgment, and not the constitution, would be the measure of its authority." † Annals of Congress, 1810–1811, 219.

Madison, strangely enough, gave Gallatin no assistance in his struggle with the opponents of the Bank. "The invisibles," as Macon called Gallatin's enemies, were willing to imperil the very life of the nation in order to break down the Secretary of the Treasury, and Madison held aloof.* If his conduct was due to a lingering regard for old Republican principles, it was a misfortune that this regard appeared in such an intermittent way. He had indeed been the opponent of the Bank in 1791, but he had also been the critic of the neutrality proclamation in 1793. The President who so completely forgot his opposition to the neutrality proclamation as to issue a proclamation which accepted the promise of Napoleon as the equivalent of a fact should also have forgotten his objections to the Bank when the destruction of that institution deprived the government of a sure means of making extensive loans, and compelled it to pay to the people of England more than $7,000,000,—and all the more so when his policy required him soon to assent to a measure which imposed a new restriction on commerce and thereby still further reduced the revenue.

Madison and the Bank.

* Adams' Gallatin, 427.

CHAPTER IX.

THE CONTRACT WITH NAPOLEON.

THE same day that Madison issued his proclamation declaring that Napoleon had revoked the Berlin and Milan decrees, Gallatin issued a circular to the collectors of customs inclosing a copy of the proclamation and announcing that commercial intercourse with England would cease February 2 unless that country followed the example of France.

Gallatin's circular.

If the fact which the proclamation asserted had been beyond question, no action on the part of Congress would have been necessary. Macon's Law provided that in case either France or England revoked its decrees, the President should proclaim the fact, and non-intercourse would revive against the other power at the end of three months unless the latter had within that time likewise revoked its decrees. But every one knew that Madison had asserted what he did not know to be true. The only ground for his assertion was the conditional promise of Napoleon, and no American in public life needed to be told that Napoleon's promises were no sort of assurance that he intended to keep them. When in December newspapers and letters from France were received which

Dilemma of the Administration.

had left after November 2, and which made no mention of a repealing decree, the Administration was in a dilemma. Should the friends of Madison admit that he had issued his proclamation without warrant? Should they acknowledge that he had been the dupe of Napoleon? Or should they take the ground that the conditional promise of Napoleon was itself to be regarded as equivalent to the repeal of the decrees? They decided to take the latter alternative. But, knowing as they did that their position was open to grave question, one of their number, John W. Eppes, introduced a bill in the House of Representatives providing that nothing but a proclamation of the President should be admitted by the courts as evidence that the British orders had been revoked, and forbidding all importation of British goods after February 2 unless such a proclamation were issued.

On January 31, — ten days, according to Madison's proclamation, before non-intercourse was to revive against England, — the President sent to Congress a letter from Jonathan Russell, our *chargé d'affaires* in Paris, which shattered the theory of the Administration. Russell wrote that on the 4th of December an American vessel had been captured at Bordeaux under the Berlin and Milan decrees, and that the question as to whether the French government would disavow the capture depended, in his opinion, entirely on the despatches received from the United States. In the face of such news, to maintain

Jonathan Russell's despatch.

that Napoleon had certainly repealed his decrees was impossible.

On February 2, therefore, when, according to Madison's proclamation, non-intercourse with England was to go into effect, Eppes moved to discharge the committee of the whole from the further consideration of his bill. "It had been considered by the Committee on Foreign Relations," he said, "that in the present aspect of our foreign relations it would be better to provide for the relief of our own citizens and suspend the passage of the law for enforcing non-intercourse, until the doubts hanging over our foreign relations were dissipated. Under these impressions, the committee had thought it proper that a distinct bill should be reported to admit to entry all vessels sailing from Great Britain after the 2d of February." Whereupon John Randolph, wishing, as he ironically said, to relieve Madison from the dilemma in which his proclamation had placed him, moved, by way of amendment, the repeal of Macon's Law,—which would have repealed Madison's proclamation also. Eppes' reply showed the embarrassment of the Administration. He took the ground that the faith of the nation was pledged to France; that Macon's Law made a definite proposition to both England and France; that France had accepted it, and that before he would vote for the repeal of the law he "must possess unequivocal evidence that France

Eppes' motion.

Randolph's motion.

Eppes' speech.

had violated the faith pledged to this nation." Randolph's reply tore Eppes' argument in pieces. "He [Eppes] conceived that we were pledged to France.

Randolph's reply.

In redemption of that pledge, he had brought in a bill for the rigorous enforcement of non-intercourse with England. He now moved to recommit the bill. Why? Was it not the object of the bill which the gentleman this morning moved to recommit to carry into effect the stipulations said to have been entered into between us and France? Unquestionably it was. The gentleman, then, by his own showing has found cause in the conduct of the French government for failing to do that which by his own argument the United States are bound in good faith to execute; over which they have not any discretionary power whatever. The question is surrendered, sir, entirely on the other side. . . . The proposition of the gentleman from Virginia . . . is in principle the same as my own, which has excited so much reprehension. . . . It is admitted by the gentleman from Virginia that a state of things has arisen in which he feels, if not released from his obligation, yet that it hangs so loosely about him that he will desist from carrying it into effect. Upon this argument the question is yielded. If the honor of the United States is mortgaged, let it forthwith be redeemed. If it be indeed pledged, let us not come halting to this House with the national faith in one hand, and expedients to evade it in the other. There

can be on such a question no recurrence to expedients. This is the 2d of February. The time has arrived—the hour now is when gentlemen by their own arguments, if their argument be just, are bound to fulfil the contract which I do not undertake to expound, but which they say has been made, certainly in a manner very novel to our constitution, between the House of Representatives on the one hand and Bonaparte on the other—a bargain which, like the bargains of old with the devil, there is no shaking off. It is a bargain which credulity and imbecility enter into with cunning and power. . . . Yes, sir, I call upon gentlemen to make good their promise to his Majesty, the Emperor of the French and King of Italy, to redeem their pledge—to cut off, in fact, nearly the whole of their trade in return for the liberty of trading by license from the three favored ports which it has pleased his Imperial Majesty to privilege. No man believes—I beg pardon, sir; I was about to say, but I will not, that no man believes one syllable of this breach of faith on our part. I have too much confidence in the honor of gentlemen not to be convinced that they have persuaded themselves to this effect, although it is incomprehensible to me. Bound, sir, to whom? To Bonaparte? Bound to Shylock! Bound to render up not only the pound of flesh, but every jot of blood in the constitution. Does he come forward with his pockets swelled with American treasure? Do his minions, fattened upon our spoil whether obtained by public rapine

or private extortion—do they come forward calling upon us to make sacrifice of our best interest on the shrine of their resentments, in the name, too, of good faith? As well might the mechanic with whom you deal present you his bill after forcing you to deliver your purse on the highway."*

Left without a leg to stand on; obliged to admit that in every letter from our minister to the French government the restoration of the property piratically seized had been insisted on as an essential part of any arrangement that might be made, and yet unable to show even so much as a promise from Napoleon that that condition would be complied with; contending that the American government was bound by a contract with Napoleon to enforce non-intercourse against England, and yet claiming the right to suspend the fulfilment of that contract because the evidence did not show that Napoleon had performed the act which created it,—the Republicans could at least vote. When the question was taken on Randolph's motion to instruct the committee to report a bill for repealing Macon's Law, it was decided in the negative by a vote of sixty-seven to forty-five.

Randolph's motion voted down.

On February 6, the Federalists renewed the struggle. When the Committee on Foreign Relations reported a bill providing that Macon's Law should not be enforced in the case of American vessels which had left British ports before the

Renewal of the struggle.

* Annals of Congress, 1810–1811, 891.

second of February, the Federalist Emmett moved to amend it by a clause which would have repealed Macon's Law altogether. In the speech in which he introduced his amendment, Emmett not only proved that the Berlin and Milan decrees were not repealed; he showed that Madison was demanding more of England than Macon's Law required if she would prevent non-intercourse from being enforced against her. He pointed out that our ministers in France and England had been instructed that Great Britain would be expected to revoke the blockade of May, 1806, as well as the Orders in Council—and this in the face of the fact that Macon's Law said nothing about blockades, and that Madison had made an arrangement with Erskine in which no mention of them had been made!

Eppes' reply was equivalent to an admission that the repeal of the Berlin and Milan decrees was in doubt. "The gentleman from New York," he said, "has entered into an argument to show that the Berlin and Milan decrees are not repealed. We have just heard of the arrival of a French minister; he has left France at a time to bring us certain information on this question. I have no wish to enter on this interesting question with a bandage round my eyes. Whether France has complied with her engagements, whether France has failed in her engagements, cannot be a subject of ingenious speculation many days longer."*

* Annals of Congress, 1810–1811, 944.

A week later, the new French minister, Serurier, was presented to the President. The next morning he had an interview with Robert Smith. To the intense astonishment of the Secretary of State and to the deep embarrassment of the Administration, Robert Smith learned that upon the question of such vital importance to the American people the French minister had nothing to say; he had no instructions in relation to the Berlin and Milan decrees! Silence from such a source on such a subject was eloquent. To declare that he had nothing to say as to the repeal of the French decrees could mean only that he had nothing to say which would promote the interests of Napoleon. Madison knew that if Napoleon had repealed his decrees, he had done it to induce the United States to close its ports to English commerce. To suppose that he could have repealed them in order to secure certain action from the United States, and, at the same time, that he wished to leave the American government in doubt as to what he had done, ought to have been impossible. But the impossible happened. Madison decided to adhere to the theory that Napoleon had repealed his decrees, and, on February 19, he sent to Congress two French documents which he wished to have regarded as evidence that Napoleon had kept the promise he made through his minister on the 5th of the preceding August. One was a letter from the Minister of Justice to the President of the

Smith's interview with Serurier.

Madison's decision.

Council of Prizes, and the other a letter from the Minister of Finance to the Director-General of Customs.

Two French letters.

These letters were dated December 25, not November 1. After reciting the substance of Cadore's letter of August 5, and stating the action which the American government had taken in consequence, the first letter proceeded as follows: "*In consequence* of this engagement entered into by the government of the United States to cause their rights to be respected, his Majesty orders that all the causes that may be pending in the Council of Prizes, of captures of American vessels made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February next, the period at which, the United States having fulfilled the engagement to cause their rights to be respected, the said captures shall be declared null by the Council, and the American vessels restored, together with their cargoes, to their proprietors."* The second letter was in substance the same.

These letters were in no sense a fulfilment of the conditions required by Macon's Law. By the terms of that law non-intercourse was to revive against either power *in consequence* of the revocation by the other of its anti-neutral

Character of these letters.

* State Papers, III., 393.

decrees. These letters pretended that the Berlin and Milan decrees would be revoked *in consequence* of the revival of non-intercourse with England. But, apart from this, they were not even in form a revocation of the French decrees. To whom had they been addressed? To the President of the Council of Prizes and the Director-General of Customs. For what purpose? To prevent the action of the Berlin and Milan decrees *at a certain stage*. There was an easy way to stop their action altogether: to declare that they were no longer laws of the French empire and its dependencies. They had become laws through their promulgation as decrees; they could be deprived of their legal character only by a counter-decree. Until such a decree was issued, French privateers and French frigates could go on capturing American vessels with impunity. Cadore's letter to Armstrong was not addressed to the commanders of the French frigates and privateers; it was only a conditional promise to the American government that the law under which American vessels had been captured should be repealed by the same authority which had made it. Nor were the letters of the Ministers of Justice and of Finance addressed to them. These letters prescribed a rule of action only for those to whom they were written. So far as every one else in the French empire was concerned, the Berlin and Milan decrees were in full force. If it be said that this is only technically true, that these letters prevented the enforcement of those decrees, the reply is that they did not pre-

vent the capture of American vessels in accordance with them. Those letters only said that ships captured under the Berlin and Milan decrees should not be sold before the 2d of February; that if the action then taken by the American government was satisfactory to Napoleon, they would be restored to their owners.

In a letter to Jefferson (March 18), Madison admitted in substance that Napoleon had not revoked his decrees. The same letter contains a sentence which throws a little light on the remarkable decision of the President to commit the country to a theory which he knew to be false: "On the whole our prospects are far from flattering; yet a better chance seems to exist than, with the exception of the adjustment with Erskine, has presented itself for closing the scene of rivalship in plundering and insulting us, and turning it into a competition for our commerce and friendship."*

Explanation of Madison's course.

On February 21, Eppes moved an amendment to his bill which showed that the Republicans had decided upon a policy. His amendment added two new sections: one revived the provisions of the Non-intercourse Act of 1809 against England in respect to all vessels which had left Great Britain after February 2; the other provided that nothing but a proclamation of the President should be admitted before

Eppes' amendment.

* Madison's Works, II., 491.

the courts as evidence that Great Britain had ceased to violate the neutral commerce of the United States.

Wright of Maryland moved an additional amendment to the effect that trade with England should not be reopened until the British government made a satisfactory arrangement on the subject of impressment. His motion received but twenty-one votes,—which showed that Congress regarded the impressment of American citizens as a trifling matter in comparison with the confiscation of American property.

Wright's motion in relation to impressment.

Thereupon ensued a desperate struggle in which the Federalists undertook to prevent the country from disgracing itself by acting on the theory that it was bound by a contract with Napoleon. There was enough in Madison's proclamation and the bill by which the Republicans proposed to legalize it—viewed from the standpoint of law merely—to provoke the intense opposition of the Federalists. Madison had issued his proclamation without the warrant of law. He had asserted as a fact what was not true. Eppes' bill was based on Madison's proclamation. It had no foundation or reason unless Madison's assertion was true. That respect for law which had called the Federalist party into existence justified them in opposing it with all their might.

The struggle of the Federalists to defeat Eppes' amendment.

But from the point of view of expediency opposition was equally a patriotic duty. The passage of this bill

would cut off a large part of the revenue of the government and compel it to go in debt or increase taxes.

Besides, non-intercourse with England would strike a blow at the commercial interests of New England as direct as the one struck by the embargo, and the appearance of impartiality which the embargo had worn was wanting here. No wonder, therefore, that the Federalists opposed Eppes' bill with such bitterness and energy as to make its passage at that late day in the session impossible by ordinary methods.

The debate began in the House February 26, 1811. As Congress was to adjourn March 3, the Federalists could defeat the bill if, for a few days, they could prevent a vote from being taken on it. On the first day of the debate, the House sat eighteen hours. Up to half-past ten at night, the Federalists sought to gain their end by making long speeches. Then they changed their tactics. By repeated motions to adjourn, by leaving the House without a quorum, they finally compelled the majority to permit an adjournment at half-past three in the morning.

Seven hours later the struggle was renewed, the Federalists continuing the methods of the preceding day. The evening session began at six and continued until nearly three in the morning. During the course of the struggle (it could not be called a debate) John Randolph gave Eppes the lie direct, and Eppes, in the midst of a scene of indescribable excitement, challenged him to fight a duel. About half-past two, Gholson of Virginia inter-

rupted Barent Gardenier in the midst of a diffuse speech by moving the previous question. The motion was carried. Then came a revolution in the rules of the House of Representatives. That very House had decided less than two years before that the vote of the previous question was no hindrance to further debate. But the Republicans determined to reverse their own decision, for they needs must silence their opponents or be beaten. When the Speaker, in accordance with existing practice, decided that debate on the main question was allowable after the previous question had been carried, an appeal was taken and every man on the Republican side of the House, except Macon and Lyon, voted to reverse the decision in order, as an excited Federalist put it, to throw the people into "the embrace of that monster at whose perfidy Lucifer blushed and hell stands astonished." Thus, in order to carry out a contract with a man who had never been a confessed party to it, it befell that the Republicans, who thirteen years before had threatened resistance to the government because the Federalists had passed the Sedition Law, arbitrarily put an end to debate by adopting a rule which enabled them to silence opposition at pleasure. In 1798, the Federalists believed that criticism of them and their measures was fraught with danger to the government: did the Republicans in 1811 believe that the government would be exposed to any danger from failing to carry out the contract with Napoleon?

On March 3, Congress adjourned after authorizing a loan of five millions to make good the deficiency in the revenue caused by carrying out the "contract." On February 17, Randolph wrote to Nicholson: "I do assure you, my friend, that I cannot contemplate the present condition of the country without the gloomiest presages. The signs of the times are of the most direful omen." After the fact, such talk seems only the croaking of a confirmed pessimist. But the optimism which could find no cause for foreboding in the conduct of the government was surely of a most exceptional kind. A government depriving itself of the financial agent which the most competent men in the country deemed necessary to its safety, bringing on a crisis in its relations with one of the most powerful nations in the world, making a material reduction in its revenues by imposing a burdensome restriction on its commerce, and alienating a powerful minority if not a majority of its most intelligent citizens, was reaching a crisis in its history. It might have dispensed with the Bank with safety, if our relations with other nations had been friendly; it might have risked a war with any nation without danger, with its finances in excellent condition, and with the strong and enthusiastic support of its most intelligent citizens; it might have alienated without risk a large body of its intelligent citizens, *in a time of peace and general prosperity.* But to disarrange its finances, re-

Randolph's letter to Madison.

duce its revenues, strain its relations with a powerful nation, and alienate a large majority of its citizens at the same time, was, to say the least, a dangerous experiment.

CHAPTER X.

THE PREVARICATIONS OF NAPOLEON.

ON SEPTEMBER 12, 1810, Armstrong left France for the United States, leaving the legation in charge of Jonathan Russell as *chargé d'affaires*. A few days before he left (September 7), he wrote to Cadore asking whether the seizures which had been made in accordance with the decree of Rambouillet were to be regarded as subject to future negotiation. Cadore's answer was explicit: "As to the merchandise confiscated, it having been confiscated as a measure of reprisal, *the principle of reprisal* must be the law in the affair."*

Cadore on the principle of reprisal.

When the 1st of November came, Russell wrote to Cadore asking if the decrees had been repealed in accordance with the letter of the 5th of August. He waited a month without receiving an answer. On December 4, he wrote to Robert Smith: "No one here except the Emperor knows if the Berlin and Milan decrees be absolutely revoked or not; and no one dares to inquire of him concerning them." But the "Moniteur" of December 15 contained an official report from Cadore to Napoleon declaring that the decrees would not be revoked

Cadore's report to Napoleon. Count de Simonville's speech.

* State Papers, III., 389.

until England revoked her orders; and, two days later, the same paper contained an official address of Count de Simonville before the French Senate in which he declared that the decrees were the "palladium of the seas." Russell wrote to Cadore asking the meaning of these statements, but he never received an official answer. In an interview with Cadore December 22, the American *chargé* got the only answer he ever received: copies of the letters written to the Ministers of Justice and Finance, of which an account has been given in the preceding chapter. But Russell at once told Cadore that the detention of American vessels under the Berlin and Milan decrees until the 2d of February threw "some doubt on the revocation of those decrees." Russell's language was doubtless influenced by the politeness of the French minister: the detention of American vessels under the Berlin and Milan decrees made it *certain* that those decrees were not revoked.

Russell's interview with Cadore.

Cadore did indeed, in this interview, assure Russell that the Berlin and Milan decrees were repealed in so far "as they related to the United States." But he showed that he had mastered the style of the letter of the 5th of August by adding in the next breath that the Emperor could not "throw himself into the arms" of the United States until this country had accomplished what it had undertaken.

When Napoleon learned that Madison had fallen into his trap, he was greatly delighted. He received a

copy of the proclamation December 12. The next day he wrote to Cadore ordering him to give new instructions to Serurier, the new minister, who had already started for the United States, and urging him to get them into Serurier's hands, if possible, before he left France. "Send me the draft of a despatch for M. Serurier," he wrote, "if he is still at Bayonne. . . . You will set forth the satisfaction with which I have read the last letters from America. You will give the assurance that if the American government is decided to maintain the independence of its flag, it will find all sorts of aid and privilege in this country." And then, showing his perfect appreciation of the weakness of the American government with reference to the Floridas, he added: "You will make known that I am not at all opposed to the Floridas becoming an American possession." Having disposed of Madison, he took up Russell: "Have a conference with this *chargé d'affaires* in order to understand thoroughly what the American government wants. Say to him that I subject ships coming from America to certain formalities; that these formalities consist of a letter in cipher, joined with licenses, which prove that the ship comes from America and has been loaded there, but that I cannot admit American ships coming from London, because *this would upset my system;* . . . in fine, that I have taken a step; that I will wait till February 2 *to see what America will do,* and that in the mean time I will be gov-

New instructions to Serurier.

erned by circumstances, but so as to do no harm to ships really coming from America. . . . In general, employ all possible means of convincing this *chargé d'affaires* of the particularly favorable disposition I feel towards the Americans." *

Evidently Napoleon had great faith in the value of profuse professions of affection. When Cadore wrote to Armstrong on the 5th of August that the decrees were *then* revoked—in some Pickwickian fashion—and that they *would be* really revoked November 1, he was bidden to say that Napoleon loved the Americans. And when on December 13, six weeks after the real revocation was to take effect, Napoleon ordered his minister to say that he would wait till February 2 to see what America would do before deciding about the real revocation, he was careful to direct that all possible means should be employed to convince Russell of Napoleon's great love for the Americans. But the proof of Napoleon's affection, which Russell most of all wanted, the actual repeal of the decrees, was not produced, because the decrees had not been repealed.

Napoleon's love for America.

The letter of December 13 was, indeed, an explicit declaration that the Berlin Decree would not be repealed: "I cannot admit American ships coming from London, because this would upset my system" — the system which he had begun to put in practice when he issued the Berlin

* Napoleon's Correspondence, XXI., 316.

Decree, the system of which that decree was the formulation.

On January 18, in reply to a letter in which Russell had transmitted Madison's objections to Napoleon's system of issuing licenses through French consuls to American vessels to trade with French ports, Cadore said: "This system had been conceived before the revocation of the decrees of Berlin and Milan had been resolved on. Now, circumstances are changed by the resolution taken by the United States to cause their flag and their independence to be respected." *

Cadore says the decrees have been repealed.

This was an official declaration that the Berlin and Milan decrees had been repealed. But if the entire value of the official *promise* of the preceding 5th of August depended on its actual fulfilment, so likewise the entire value of an official declaration that they had been repealed depended upon its truth — and Cadore's declaration was not true: Napoleon had issued no repealing decree. On February 9, Cadore wrote to Serurier in a very different tone. "Continue to conduct yourself with the reserve heretofore recommended to you," he said, "and compromise yourself by no step and by no official promise. Circumstances are such that no engagement can be taken in advance. It is at the date of February 2 that the United

Instructions to Serurier.

* State Papers, III., 501.

States were to execute their act of non-intercourse against England; but before being officially informed in France of what they have done at that time, we cannot take here measures so decisive in favor of the Americans as we shall be able to do after news to February 2 shall have arrived from America." Always postponing! On August 5, the decrees were to be repealed November 1; on December 13, the date fixed upon was February 2; and on February 9, decisive measures could not be taken in favor of the Americans until after news to February 2 had arrived from America!

On April 25, Russell received despatches from the United States enclosing a copy of the Non-intercourse Act of March 2. Three days later, he took it to the French Foreign Office. The Duke of Bassano, who had succeeded Cadore as Minister of Foreign Affairs, at once took it to Napoleon. The next day, Napoleon dictated a report which his ministers were to make — and therein showed what he thought of the contract into which the American government seemed to suppose they had entered. "The United States have not yet declared war upon England," he said, "but they have recognized the decrees of Berlin and Milan, since they have authorized their citizens to trade with France and have forbidden them to trade with England. In strict public right, the Emperor ought to demand that the United States should declare war against England; but, after all, it is in some sort to make war

The report dictated by Napoleon.

when they consent that the Decree of Berlin should be applied to ships which shall have communicated with England. . . . If it is impossible to find a good theory for this system, it is best to gain time, leaving the principles of the matter a little obscure until we see the United States take sides; because that government cannot remain long in its actual situation towards England." *

The assertion that the United States had recognized the Berlin Decree was in effect true; the Non-intercourse Law of March 2, 1811, forbade American citizens to do precisely what they had been forbidden by the Berlin Decree to do — trade with England.

The news from America to March 2 had arrived. Madison's proclamation had been enforced. All that the American government had agreed to do was done. But the decision of Napoleon was that it was best "to gain time, leaving the principles of the matter a little obscure" until the United States took sides! He was only less explicit with Russell. On May 4, Bassano wrote a brief note to Russell: "I hasten to announce to you that his Majesty the Emperor has ordered his Minister of Finance to authorize the admission of the American cargoes which had been provisionally placed in deposit on their arrival in France. . . . The vessels to which these cargoes belong will have to export the amount of them in national merchandise, of

Bassano's letter to Russell.

* Correspondence, XXII., 122.

which two thirds will be in silks." * But not one American vessel captured since the 1st of November had then been released or even given a trial. That was Napoleon's reply to the enforcement of non-intercourse against England.

Jonathan Russell understood Napoleon's policy, and if the Administration was in any doubt about it, the fault was not his. "The temper here towards us is professedly friendly," he bluntly told the government, July 13, 1811, "but unfortunately it is not well proved to be so in practice. It is my conviction, as I before wrote you, that the great object of the actual policy is to entangle us in a war with England. They abstain, therefore, from doing anything which would furnish clear and unequivocal testimony of the revocation of their decrees, lest it should induce the extinction of the British orders and thereby appease our irritation against their enemy. Hence, of all the captured vessels since November 1, the three which were liberated are precisely those which had not violated the decrees. On the other hand, they take care, by not executing these decrees against us, to divert our resentment from themselves. I have very frankly told the Duke of Bassano that we are not sufficiently dull to be deceived by this kind of management. He indeed pretends that they are influenced by no such motive; and whenever I speak to him on the subject, he reiterates the

* State Papers, III., 505.

professions of friendship, and promises to endeavor to obtain the release of the remainder of our vessels captured since November 1. I fear, however, that he will not succeed."*

On this side of the Atlantic, the same comedy was enacted between Serurier and Monroe, who had succeeded Robert Smith as Secretary of State April 1. Tired of contending with enemies who were willing to put the country in danger for the sake of defeating his measures, Gallatin had sent in his resignation as Secretary of the Treasury early in March. Madison refused to accept his resignation. He resolved at that late hour to do what he should have done from the start — give his hearty support to the only really able man in his cabinet. He demanded the resignation of Robert Smith, who had used his position as member of the cabinet to intrigue against the government, and asked Monroe to accept the portfolio of state.

The latter, on taking office, determined to reverse the foreign policy of the Administration, purposing to bring on a rupture with France if Napoleon persisted in his course towards this country.†

The despatches of Serurier to his government evidence in every line the reluctance with which Monroe abandoned his purpose. Since September, 1810, the legation in Paris had been in the hands of a *chargé*

* MS. State Department Archives. † Gallatin's Works, I., 497.

d'affaires, and respect for France required that the United States should be represented by a minister in Paris. But Monroe delayed the departure of Joel Barlow, who had already been appointed when the former took office. Not until June 17, when news arrived from France that the American vessels which had been held in sequestration since November 1 had been released, did Monroe decide to regard the Berlin and Milan decrees as repealed. Barlow was immediately ordered to depart. But before he was able to get away, despatches were received from Russell informing the government that the American vessels captured by French privateers since November 1 had not been released. Madison told Serurier that this failure to execute the chief of their engagements destroyed the effect of all the rest — and with good reason. For how could it be contended that the French decrees had been repealed when French privateers were permitted to capture American vessels? But the President and Monroe had decided to try to believe that the French decrees were revoked. Three days after Madison's complaint to the French minister of the capture of American vessels on the high seas by French privateers, thirteen days after Jonathan Russell had declared that Napoleon had not revoked his decrees, Monroe gave Barlow instructions which contained the following paragraph: "It is understood that the blockade of the British Isles is revoked.

Monroe delays Barlow's departure for France.

Barlow's instructions.

The revocation having been officially declared, *and no vessel trading to them having been condemned or taken on the high seas that we know of,** it is fair to conclude that the measure has been relinquished. It appears, too, that no American vessel has been condemned in France for having been visited at sea by an English ship, or for having been searched or carried into England, or subjected to impositions there. On the sea, therefore, France is understood to have changed her system."†

Madison's theory.

Madison's theory had been that Napoleon's interference with the commerce of the United States *in French ports* was a *municipal* matter which, however vexatious and unjust it might be, was no infringement of the *neutral* rights of this country. Russell's despatches disproved that theory. But Madison was obliged to persist in maintaining it. If he could have brought himself to acknowledge that his foreign policy from November 1, 1810, had been a tissue of blunders, he could not hope to induce Congress to be equally willing to confess its mistake. But the only way to change the foreign policy of the country was to repeal the law of March 2, 1811, which had been passed on the theory that the country was bound by a contract with Napoleon.

Barlow reached Paris September 19, 1811. As he was to presume that the Berlin and Milan decrees were

* Italics not in the original. † State Papers, III., 510.

repealed, he was only ordered to insist on indemnity for the spoliations made under the Bayonne and Rambouillet decrees, and to secure, if possible, freedom of American commerce from the vexatious "municipal" regulations which had been enforced since the pretended repeal of the former decrees. But the absence of Napoleon and his Secretary of State from Paris made it impossible for Barlow to do anything before November 10. In the mean time, Bassano sent instructions to Serurier which made it evident that Barlow's efforts, like those of his predecessors, would be fruitless. Bassano told Serurier that all American vessels which had been captured since November 1 had been released, except those which had come by way of England — except those, in a word, which violated the Berlin Decree; these were, however, not yet condemned. If Serurier were to be asked the cause of their sequestration, Bassano bade him say that he had no instructions on that subject. "On this question you should speak as for yourself; appear ignorant of what are the true motives for still detaining some American ships which have had communication with England; . . . in short, give no explanation that would imply that the decrees of Berlin and Milan are not entirely revoked."

Bassano's instructions to Serurier.

On December 28, Barlow took a paper to Bassano in the hope of inducing him to sign it. The paper contained the following sentences: "No cause whatever shall warrant the capture or detention of an American

vessel at sea, or her seizure at a French port, or in any other port, by French authority, but a well-grounded suspicion of forgery in her papers. . . . His Majesty will cause the liberation of all the remaining ships and cargoes, now in his ports, belonging to American citizens, as fast as the necessary inquiries now going on shall prove them to be such." * Napoleon ordered his minister to say that it was not proper for him to sign that declaration, but to assure Barlow that he would act as though he had signed it; that he would adopt all its principles, and that from that day (December 30, 1811) they were in operation! It soon appeared that Napoleon's memory had not improved. On March 12, 1812, Barlow wrote to Bassano protesting in strong language against the plunder and burning of two American ships and demanding compensation. Four days later, the "Moniteur" published Bassano's official report to the Emperor — the only reply Barlow ever received. This report declared that no blockade was real except where a port was "invested, besieged, in the presumption of being taken," and until England admitted this "the decrees of Berlin and Milan must be enforced towards powers that permit their flags to be denationalized." Regarding Bassano's report as proof that the Berlin and Milan decrees were not repealed,

More promises from Napoleon.

Bassano's report.

* State Papers, III., 517.

the Prince Regent of England declared (April 21, 1812) that in case these decrees were repealed in a formal and public way, the English Orders in Council should be absolutely withdrawn.

When the declaration of the Prince Regent reached Barlow, he immediately wrote to Bassano insisting that the French government should publish an authentic act declaring that the Berlin and Milan decrees had not been enforced since November 1, 1810, and that they would not be in future. "The case is so simple," said Barlow, "the demand so just, and the necessity so urgent, that I cannot withhold my confidence in the prompt and complete success of my proposition." *

Barlow followed up his note with an interview in which he urged still more sharply the justice and necessity of the American case. Then came the climax of Napoleon's falsehoods. Driven into a corner, Bassano handed to the American minister a copy of a decree dated April 28, 1811, declaring that the Berlin and Milan decrees had not existed for American vessels since the first day of November, 1810! The histrionic powers of the American minister were not equal to those of the Frenchman. Besides, he had had no opportunity to rehearse his part, since he did not know what rôle would be assigned him. Overwhelmed with embarrassment, it did not

Napoleon's fraudulent decree.

* State Papers, III., 603.

occur to him to ask Bassano why this decree had been so long concealed; why, when the Frenchman had piled argument on argument to show that the decrees were repealed, he had failed to produce the repealing decree itself. Obliged to say something, he could only think to ask if the decree had been published, as though the publication of such a document could possibly have escaped attention. Bassano said no, but that it had been communicated to Russell, and that a copy of it had been sent to Serurier.

Whatever may be said of the political ethics of Bassano, he was certainly a man of humor. The same day that he sent a copy of the decree to Barlow, he sent one also to Serurier. "I have learned from Mr. Barlow," he said, "that he is not acquainted with the decree of April 28, 1811, . . . and I have addressed a copy to him. You yourself, sir, have never acknowledged its reception; you have never mentioned it in any of your despatches; you have never dwelt upon it in any of your interviews with the American Secretary of State. This silence makes me fear that the communication made of it to you under date of May 2, 1811, did not reach you, and I think it proper to enclose herewith a new copy." *

Bassano's despatch to Serurier.

As Napoleon was so ready to indulge in falsehoods, one would have thought that he would have been willing

* Bassano to Serurier, March 10, 1812.

to adapt his fabrications to the convenience of Madison. But the so-called repealing decree of April 28, 1811, demolished Madison's position. Madison asserted in the proclamation which he issued November 2, 1810, that the Berlin and Milan decrees were repealed; and because they were, Gallatin issued a circular declaring that unless the British government revoked its orders before February 2, non-intercourse would then revive against England. But the decree of April 28, 1811, asserted that the decrees had been repealed the first day of November, 1810, *because Congress passed a law on the 2d of March, 1811, reviving the non-intercourse provision of the Non-intercourse Act of March, 1809.* Madison felt this keenly. "The conduct of the French government," he wrote to Barlow, August 11, 1812, "will be an everlasting reproach to it. It is the more shameful as departing from the declaration to General Armstrong, of which the enforcement of the non-importation was the effect. . . . Even without a peace with England, the further refusal or prevarication of France on the subject of redress may be expected to produce measures of hostility against her at the ensuing session." *

Embarrassment of Madison.

But the Berlin and Milan decrees were not even repealed in 1812. Only a few weeks after the dramatic presentation of the repealing decree, Barlow was de-

* Works, II., 540.

manding explanations from Bassano in regard to seventeen American vessels which had just been burned at sea under the Berlin and Milan decrees. He never received any. Through some unaccountable blunder, Napoleon had one honest man in his service, the Duc Dalberg, to whom Bassano had committed the negotiation with Barlow when he followed Napoleon into Russia—against which country, by the way, Napoleon was waging war because the Emperor of Russia would not enforce the Berlin and Milan decrees against American vessels. On August 11, 1812, Dalberg wrote to Bassano a despatch which tells the whole story of how the Berlin and Milan decrees were repealed without being repealed. "If we wish to inspire any confidence in the American government," wrote Dalberg, "of what use is an isolated proof of revocation if a little while afterwards another proof overthrows it, and if Mr. Barlow, by his means of information at the Department of Commerce, at that of the Marine, at the Council of Prizes, learns that they are ignorant of it; that nothing is changed in that legislation, and that it may at any instant be enforced? Under such circumstances, I pray you, Monsieur le Duc, to consider what is the good of all the fine phrases and fair words that I may use to Mr. Barlow, when he is every moment receiving news that our privateers on the Baltic and on the coast permit themselves the most reckless violations against the property of the Americans.

Dalberg on the repeal of the Milan Decree.

In such circumstances the art of diplomacy becomes insufficient, a sorry game of which no one is the dupe." *

No, Napoleon never did repeal his Berlin and Milan decrees. They were indeed repealed. But the repealing power was the Russian winter of 1812–13, and this repealed them by depriving Napoleon of the ability to enforce them. In 1812, the United States went to war with England because the British government would not revoke its orders when Napoleon repealed his decrees. What effect was that likely to have upon the Federalists of New England, when the evidence showed that Napoleon never had repealed them?

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* Dalberg to Bassano, August 11, 1812.

CHAPTER XI.

PINKNEY'S ULTIMATUM.

THE mission of Jackson added one more to the list of grievances which the United States had against England. Smith's letter to Jackson closing his mission left England without a minister in this country, and the question was, would the British government show the United States the disrespect of leaving the legation at Washington in the hands of a *chargé d'affaires?*

On December 6, 1809, Canning was succeeded in the English Foreign Office by Lord Wellesley, brother of the man who afterwards became famous as the Duke of Wellington. A few days after Wellesley became Secretary of State, Pinkney called upon him and explained why Madison had requested Jackson's recall, and why the American government had suspended intercourse with him. Wellesley's manner was friendly, and Pinkney left him with the impression that the course of the English government with reference to Jackson would be satisfactory to the United States. On January 2, 1810, Pinkney wrote a formal letter to Wellesley, in which he stated the substance of his conversation with the English Secretary in December. Wellesley delayed his reply till March. In the mean time, Jackson and his friends had been exert-

Pinkney's interview with Wellesley.

ing themselves to prevent the appointment of a minister to the United States, while the Federalists had been trying to convince the world that their government had made a mistake in supposing that the conduct of Jackson had been insulting. Wellesley told Pinkney in one of their conversations that great pains had been taken by some people to persuade him "that the British interest in America would be completely destroyed by sending thither at this time a minister plenipotentiary."* These influences caused Wellesley's reply to be much less satisfactory than Pinkney had expected. No minister was appointed to take Jackson's place, and Madison began to suspect that there was no intention to appoint one. In a letter to Pinkney, May 23, 1810, he said: "On ascertaining the substitution of a *chargé* to be an intentional degradation of the diplomatic intercourse on the part of Great Britain, it is deemed proper that no higher functionary should represent the United States at London." † The same disposition to make fair promises and to procrastinate in keeping them appeared in relation to the "Chesapeake" affair. Pinkney found Wellesley "given to procrastination beyond all example. . . . Nothing could be fairer," Pinkney wrote, "than his various conversations about it. . . . He settles

Wellesley's procrastination.

* Wheaton's Pinkney, 454. † Ibid., 441.

it with me verbally over and over again. He promises his written overture and I hear no more of the matter."*

Such was the condition of things between the United States and England when Cadore wrote his 5th-of-August letter. On August 6, 1810, Armstrong wrote to Pinkney announcing the repeal of the Berlin and Milan decrees, quoting in proof of it a part of Cadore's letter. Pinkney at once wrote to Wellesley, and, after stating the substance of Armstrong's letter, said that he took it for granted that the revocation of the British orders would follow as a matter of course. Wellesley replied that "whenever the repeal of the French decrees shall have actually taken effect, and the commerce of neutrals shall have been restored to the condition in which it stood previously to the promulgation of those decrees, his Majesty will feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt."†

Pinkney informs Wellesley of Cadore's letter.

On November 3, Pinkney wrote to Wellesley reminding him that the day had passed when, according to Cadore's letter, the revocation of the French decrees was to take effect, and that it could not be doubted that it had taken effect. If the British government, contrary to every reasonable expectation, declined to abandon its system, he trusted that the American gov-

* Wheaton's Pinkney, 447. † State Papers, III., 366.

ernment would be informed as soon as possible of its decision. Pinkney's policy, as he wrote Robert Smith, was to take for granted the manifest and incontrovertible justice of his expectations in the belief that he could meet objections with more advantage after they had been avowed than when they were merely conjectured. "Should, however, studious ambiguity continue to be preserved on a subject which now touches more nearly than ever (in my opinion *vitally*) the character and rights of our country, I shall, very soon, think myself called upon to suppose for this government reasons which it will not declare, and to examine them with fulness and freedom in a letter to Lord Wellesley."* On December 4, Wellesley sent Pinkney a note in which he said that he had not been able to obtain any authentic evidence of the repeal of the French decrees. Exasperated almost beyond endurance at the "monopolizing and smuggling schemes which had so long insulted the world," believing that the British government would not stand against a show of determined resistance to its injustice, and that if it did it should be resisted to the uttermost, Pinkney wrote (December 10) to Wellesley, stating at length the grounds upon which the United States had a right to expect the repeal of the English orders in consequence

Pinkney's policy.

* State Papers, III., 374.

of Cadore's letter, and exposing, almost without concealment, his contempt for the British policy. "I had taken up an opinion," he said, "which I abandoned reluctantly and late, that the British government would be eager to follow the example of France in *recalling*, as it had professed to do in *promulgating*, that extraordinary system of maritime annoyance which, in 1807, presented to neutral trade in almost all its directions the hopeless alternative of inactivity or confiscation; which considered it a subject to be regulated, like the trade of the United Kingdom by the statutes of the British Parliament; and undertook to bend and fashion it by every variety of expedient to all the purposes and even caprices of Great Britain. I had no idea that the remnant of that system, productive of no conceivable advantage to England, and deservedly odious for its theory and destructive effects to others, could survive the public declaration of France that the edicts of Berlin and Milan were revoked." Pinkney then attempted to show that there was no doubt about the repeal of the French decrees,—in which, as we know, it was inevitable that he should fail, since the decrees had not been repealed. But when he discussed the *practical effect* of their repeal he was irresistible. He tore off the cloak which the British government had thrown around its invasions of the rights of the United States, and exposed their real character: the arbitrary substitution of the will of England for the acknowledged

Pinkney's characterization of the policy of England.

principles of public law. "Under such circumstances it might be hoped," he said, "that if it was too much to expect the credulity of 1807, the evidence of the practical effect of the repeal of the French decrees did not need to be very strong to be satisfactory."*

The last sentence explains the tone of his letter and of the entire correspondence on his part. Pinkney knew that the French decrees *in so far as they violated the rights of neutrals* were almost purely idle fulminations; that the fleets of England made the so-called blockade of the British Isles a piece of empty bravado, while the English orders inflicted terrible injuries in retaliation for injuries almost nominal and for which the United States was in no wise responsible. He had shown this repeatedly with the clearness of demonstration to the English government, and one minister had met his arguments with sarcasms and thinly veiled insults, while another, beginning with fair promises, had proved equally reluctant to take a single step towards redressing the grievances of this country. Patience and argument having proved equally unavailing, Pinkney resolved to take another course.

Explanation of Pinkney's letter.

In obedience to instructions from his government, the American minister demanded the revocation of Fox's blockade,—which under the circumstances was unfortunate, since, in view of the fact that the arrangement

* State Papers, III., 376-379.

with Erskine, although it made no provision for the recall of that blockade, was expected by the President to restore friendly relations between the United States and England, Pinkney's demand gave the Federalists another reason to suppose that Madison was guided by the wishes of Napoleon. On January 14, 1811, the American minister sent a note to Wellesley announcing his determination to ask for his passports on the ground that the British government continued to be represented at Washington by a *chargé d'affaires*.

If Pinkney's aim was to stimulate the British cabinet to take some definite action, he succeeded. On February 15, Wellesley wrote two notes to Pinkney, one official and the other marked "private." The official note said that the Prince Regent would be prepared to give Pinkney audience of leave on the 19th, and that Augustus Foster had been appointed minister from England to the United States. The unofficial note explained that the failure to appoint a minister before had been due to no disrespect to the United States. Evidently the British government did not wish to push the American government to extremes.

Wellesley's reply.

Pinkney hesitated. On the 15th of the preceding November, he had been instructed to consider his function as suspended, and to take his leave in case no minister had been appointed as successor to Jackson. But this instruction was so qualified as to leave the whole

matter to his discretion. Pinkney decided that the appointment of a minister was worse than nothing if the Orders in Council were to remain in force, the blockade of May, 1806, to be unrepealed, and the other urgent questions between the two countries to remain unsettled. The mere appointment of a minister would not "satisfactorily change" the "posture of our relations." He accordingly (February 17) wrote a short note to Wellesley in which he said: "I presume that, for the restoration of harmony between the two countries, the Orders in Council will be relinquished without delay; that the blockade of May, 1806, will be annulled; that the case of the 'Chesapeake' will be arranged, . . . and that in general all such just and reasonable acts will be done as are necessary to make us friends." * On February 23, Pinkney received Wellesley's reply: "It would be neither candid towards you nor just towards this government to countenance any interpretation of the motives of the late appointment which might favor a supposition that it was intended by this government to relinquish any of the principles which I have so often endeavored to explain to you." † That reply left but one course open to Pinkney, and he did not hesitate to take it. "I will avail myself," he at once replied, "of the disposition of his Royal Highness, the Prince Regent, to give me an audience

* State Papers, III., 414. † Ibid., 415.

of leave on Thursday next." He believed that the time had come for the American government to resort to extreme measures, and, as far as it depended on him, he meant that that resort should be taken. A few weeks later he left London.

Pinkney's departure.

About the same time Foster sailed for the United States, bearing instructions which made it folly for him to come. He was authorized to settle the "Chesapeake" affair to suit the American government. But he was to take the ground that Napoleon's decrees had not been repealed, and that the British orders could not be recalled until neutral commerce was restored to the position in which it stood before the commencement of the French system of commercial warfare. He was also to protest against the seizure of the Floridas.

Foster's instructions.

Before he reached this country, an event happened which seemed to make his mission more hopeless than ever. As though it were determined by fate that nothing in the relations of the two countries should be left to chance, there was an encounter (May 16) between the British sloop of war "Little Belt" and the American frigate "The President," in which the rigging and sails of the British sloop were cut to pieces and thirty-two of her men killed or wounded, while "The President" escaped without the loss of a single man and almost without injury.

The affair of the "Little Belt."

The wonder indeed was that such an encounter had not taken place before. Five years had passed since the men had been shot down on the deck of the "Chesapeake" in a time of peace between the United States and England. During all those years, the men forcibly taken from her had been wearing away their lives in British dungeons, and the widows and orphans of the Americans who had been killed had been left without the assistance which a government desirous of being just would have been eager to give them. For a mere point of etiquette England had refused to make reparation for the attack ordered by Admiral Berkeley, although the British government acknowledged that he had made it on his own responsibility,—when such an act done by a private individual would have justly exposed him to a trial for murder. Accordingly, on June 9, 1810, Secretary Hamilton gave Commodore Rodgers instructions which, under the circumstances, were very natural. Rodgers was ordered to "vindicate the honor of our navy; . . . to maintain and support at any risk and cost" the honor of his flag. The reason assigned for these orders was "the inhuman and dastardly attack on our frigate 'Chesapeake'— an outrage which prostrated the flag of our country, and has imposed on the American people cause of ceaseless mourning."

CHAPTER XII.

PEACE OR WAR?

IF a man of decision had occupied the White House, the course of the American government after Pinkney left England would have been clear. Acting as the representative of the United States, Pinkney had delivered his ultimatum. He had told the English government that friendly relations could not exist between the two countries unless the Orders in Council were revoked and Fox's blockade annulled. His ultimatum had been met by a point-blank refusal: the English government would abandon none of the "principles" for which it had so long contended. Under such circumstances it ought to have been clear that the American government must do one of two things: it must disavow Pinkney or it must go to war with England, so far, at least, as it depended on the executive to do it. Not to disavow Pinkney and yet to do nothing, would be to make a still higher bid for the contempt of civilized nations than the United States had been making since the repeal of the embargo. Unless the American government meant to make its management of foreign affairs a matter of low comedy, it must disavow Pinkney or fight.

The two courses open to Madison.

That Madison should think of disavowing Pinkney was out of the question. The action of Pinkney was the logical result of Madison's own position. But a bolder man than the President would have looked upon the other course with misgivings. As a politician he could not forget that a war would mean loans and taxes, and that taxes had driven the Federalists from power. As a Jeffersonian Republican he could not but realize that to go to war would be a confession that the policy of commercial restrictions had failed and that the theories of the Federalists were true. As a statesman he must have reflected that with an empty treasury, with a fleet of four frigates and an army of five thousand men, it would be perilous to go to war with a power that was holding Napoleon, with the continent of Europe behind him, at bay; on an issue, moreover, in reference to which a large and influential part of the American people opposed the President with passionate intensity.

Consequences of war with England.

On July 3, England gave the American government an example of the way it should have acted in the case of the "Chesapeake." A special messenger had been sent to Foster instructing him to demand a disavowal of the attack upon the "Little Belt," and a proper reparation for the injuries inflicted. Thereupon, without waiting for instructions, Foster wrote to Monroe demanding an inquiry into the conduct of Commodore Rodgers and asking for a formal

The case of the "Little Belt."

statement of what the latter had already told him informally: that no instructions had been given to Rodgers which authorized the attack upon the "Little Belt." Monroe waited thirteen days, and when he replied he showed that the sarcasm of Canning with reference to the "Chesapeake" still lingered in his memory. "Although," he said, "the excitement which had been produced by previous and recent aggressions, particularly by the impressment of American citizens from American vessels even on the coast of the United States, was great, yet no order had been given by the government for the recovery by force of any citizen so impressed from any British ship of war."* He entirely ignored Foster's demand for an inquiry into the conduct of Commodore Rodgers.

The tone of Monroe's letter was not lost on Foster. "The letter of Monroe," he wrote to Wellesley, "barely denies the fact of orders having been given to Rodgers to attack any of his Majesty's ships in search of an impressed seaman; and this denial, which was absolutely necessary if they did not mean to commence war, is couched in such ungracious terms as to justify a conclusion that, though they disclaim having done so, yet they thought they might have been justified in giving such an order." †

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* State Papers, III., 472.

† British MS. State Papers. Foster to Wellesley, July 18, 1811.

The same letter contained a statement which the British government would have done well to consider: "On the whole, their view in this business is to settle this, with every other difference, in the most amicable manner, provided his Majesty's Orders in Council are revoked; otherwise, to make use of it, together with all other topics of irritation, for the purpose of fomenting a spirit of hatred towards England and thereby strengthening their party. Your lordship cannot expect to hear of any change till Congress meets." Foster's statement was not a mere matter of inference. Monroe had told Foster the day before that unless the British minister had power to declare the Orders in Council at an end, nothing could be effected towards a reconciliation of their differences. About a month later, the American government decided to order an inquiry into the conduct of Rodgers, and as he was completely exonerated, the British government allowed the matter to drop. On November 1, 1811, Foster offered the same reparation for the "Chesapeake" outrage which Erskine's arrangement had provided for, and the offer was accepted.

Foster on the policy of the American government.

The diplomatic passages between Monroe and Foster with reference to the Orders in Council and the Floridas are of interest rather to the student of human nature than to the student of history. That Foster would take a high moral tone with reference to the Floridas and enter

Monroe and Foster.

the "solemn protest" of the English government against their occupancy by the United States; that he would defend the Orders in Council as measures of retaliation, and contend that the retaliation was still necessary on the ground that the Berlin and Milan decrees were still enforced; that Monroe would contend that the United States had bought West Florida when it bought Louisiana, and that the occupation of East Florida might under certain circumstances be "forced" upon the United States; that the Berlin and Milan decrees were repealed, and that the frail foundation upon which the Orders in Council had originally rested was gone — all this was but the inevitable result of their respective positions. Foster was bound by his instructions, and Monroe hardly less rigidly constrained by the imperious force of the circumstances which Madison had created. Each was arguing, not for the effect he hoped to produce on the other, but for the effect he hoped to produce on the American people. They were making speeches for "Buncombe": Foster endeavoring to bring into bold relief the facts which seemed to show that the Berlin and Milan decrees were not repealed; Monroe endeavoring to make the British minister put on record the demand of his government that the *municipal* as well as the *international* operation of the French decrees should cease as a condition of the revocation of the English orders.

The contrast between Monroe's declarations to Foster and his declarations to Serurier is in the highest

degree interesting. At the very time that he was contending with Foster that the Berlin and Milan decrees were repealed he was upbraiding Serurier because of the accumulated proofs that Napoleon was still enforcing them. He was shrewd enough not to express his complaints to Serurier in any official document. Only in the records of the French Foreign Office is the evidence to be found that he turned from complaints to Serurier that Napoleon had not revoked his decrees, to complaints to Foster that the British government refused to accept the fact of their revocation.*

Monroe and Serurier.

The demand of the British government that the municipal operation of the French decrees should cease as a condition of the revocation of the English orders deserves careful attention. Foster's instructions included the following paragraph: "The pretext of municipal right under which the violence of the enemy is now exercised against neutral commerce in every part of the Continent will not be admitted by Great Britain, nor can we deem the repeal of the French hostile decrees effectual until neutral commerce shall be restored to the condition in which it stood previously to the commencement of the French system of commercial warfare." † It was this paragraph, suggested by Foster's first letter, which Monroe wished to

Foster's instructions.

* See Henry Adams, VI., passim.

† MS. British State Papers. April 10, 1811.

bring into the light, and upon which he wished to concentrate the attention of the American people. "In order to understand distinctly and fully the tenor of your communications," he wrote to Foster, "you will pardon the request I have the honor to make of an explanation of the precise extent in which a repeal of the French decrees is made a condition of the repeal of the British orders; and particularly whether the condition embraces the seizure of merchant-vessels and manufactures *entering French ports in contravention of French regulations,* as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to or from British ports, or that they have on board British productions and merchandise." *

Foster's dilemma.

This question put the British minister in a dilemma. To answer it in the negative—to say that Great Britain did not presume to interfere with the internal regulations of any country, that Napoleon had a perfect right to forbid the importation of articles of British manufacture whether in the possession of neutrals or not—would violate his instructions. To answer it in the affirmative—to say that the British government meant to confiscate American ships and their cargoes on the way to French ports until the United States compelled Napoleon to permit American vessels to carry British goods into French

* State Papers, III., 438. Italics not in the original.

ports—would drive the Federalists to the support of Madison. On November 9, Foster wrote to Wellesley that he found even "among the warmest of the Federalists a disposition to resist our pretension that, as a condition of the revocation of the Orders in Council, France should repeal her system so as to admit articles of British origin, when owned by neutrals, into her ports and those of the countries under her influence. They say that they cannot pretend to interfere with the internal regulations of a foreign country."* Foster accordingly evaded and equivocated; took refuge in general terms which might mean anything or nothing as occasion demanded. Again and again Monroe pressed the point. He realized that if he could make the American people understand that England demanded the United States to require Napoleon to admit British manufactures into French ports, the question as to whether the Berlin and Milan decrees had been repealed would become a matter of no importance.

Madison urged the same point in his message to Congress, November 5, 1811. Foster had stated, he said, that "it was an indispensable condition of the repeal of the British orders that commerce should be restored to a footing which would admit the productions and manufac-

Madison's charge against England.

* MS. British State Papers.

tures of Great Britain, when owned by neutrals, into markets shut against them by her enemy." On December 17, Foster made a pretence of denying the charge; but his denial was couched in such vague and equivocal terms as to deprive it of any real significance. In speaking of his denial to his own government, he said: "I myself thought it right to condense into the first page of my letter an absolute declaration of its never having been asked of the American government that she should force into France the manufactures of Great Britain, proceeding afterwards to those explanations which, however obscurely worded, leave undefined the real nature of our demands."*

Foster's denial.

Madison's statement of the grievances of this country in his message to Congress made no mention of the impressment of American seamen. Imprisoning American citizens in British dungeons and compelling them to fight the battles of England still seemed even to the Republicans a trifling matter in comparison with the confiscation of American property. Evidently the Democratic party did not yet understand the fundamental principles of democracy.

Madison silent as to impressment.

The Congress which listened to Madison's message was to an unusual extent an unknown body. About seventy of its members were new men. But the signifi-

* MS. British State Papers. Foster to Wellesley, January 2, 1811.

cant fact was that the leaders in the House of Representatives were young men. Henry Clay, John C. Calhoun, Langdon Cheves, William Lowndes, and Felix Grundy called themselves Republicans, and doubtless considered themselves disciples of Jefferson. But that intense fear of the monarchical tendencies of Federalism which so perturbed the Old Republicans was to these impetuous young leaders only a matter of pale and lifeless tradition. Could such shadowy ghosts hold in check the energy of these young Americans? Would men who were typical representatives of the most energetic people in the world submit to England's outrages because war tended to strengthen the government? That was the question upon which Foster would have done well to ponder if he wished to enlighten his government as to the probable action of the United States.

The leaders in the House of Representatives.

The temper of the House of Representatives was shown in no uncertain way by the election of Henry Clay as Speaker on the first day he entered that body, the only instance in which that honor has been conferred upon a new member. He was one of the representatives from Kentucky. Admitted into the Union in 1792, only eighteen years after the first settlement had been made, Kentucky would hardly choose men to represent it to whom the conduct of England would not seem intolerable. Men whose school had been the wilderness, and whose

Henry Clay.

teachers the savage men who inhabited it, who had wrung their homes from the grasp of the primeval forest, and who owed their lives to their courage, would be likely to regard the outrages of England as colder men feel a personal insult.

The newly elected Speaker was in temper a typical Kentuckian. Born in Virginia in 1777, he had received his only school education in a log cabin of the "Slashes," the name of the neighborhood in which he was born. By a lucky accident, he was selected at the age of fourteen by Chancellor Wythe, one of the signers of the Declaration of Independence, to act as his secretary. After four years of service with this enlightened man (in whom, says his biographer, Clay found a father) he decided to study law, and at the end of another year he was admitted to the bar.

In 1797, he went to Lexington, Kentucky. His great ability as a speaker won for him from the start success at the bar and made him a prominent man in his community.* In 1803, he was elected to the state

* "It is a remarkable fact," says Cassius M. Clay, "that Mr. Clay as a criminal advocate never lost a case. It is therefore a subject of interest to see what were the causes of this extraordinary success. . . . Of all the men whom I have known, Clay had more of what is called, in modern times, magnetism. He was quite tall, yet commanding, and very graceful in manner and movement. He had the most wonderful voice in compass, purity, and sweetness, and which, with the whole science of gesticulation and manner, he sedulously cultivated. . . . In this Clay had a great source of power. There

legislature, where he soon made such a reputation as a speaker that whenever it was known that he was going to speak it was impossible to get a quorum in the other House. His service in the legislature made him one of the prominent men in the state. Accordingly, he was appointed in 1806 by the governor to represent Kentucky in the Senate of the United States for an unexpired term. He was then under thirty, the age to which a senatorial candidate must have attained to become eligible. But neither his youth, nor his inexperience, nor his defective education prevented him from participating freely in the debates. Four days after he took his seat, William Plumer said: "Mr. Clay appears to be an easy, eloquent, and graceful speaker."* In his very first

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was also a natural common sense which in him, as in Abraham Lincoln, outweighed all the culture in books of their great rivals. Thus Mr. Clay in the backwoods, where men are seen more in their real characters than in older societies and cities, was better able to understand them." — Life of Cassius M. Clay, 88.

* Life of William Plumer, 351. A few days later, Plumer made another remark about Clay: "This day Henry Clay and Matthew Clay, his uncle, joined the party at our lodgings. They are Republicans [Plumer was a Federalist], and I am glad they have come. I dislike this setting up partition-walls between the members of Congress because some are Federalists and others Republicans." Federalists and Republicans had been boarding in different houses. Even Jefferson, as we learn from the same authority, carefully avoided mixing members of the two parties at his dinners.

speech, he scandalized the Senate by ridiculing an old member for his assumption of superior wisdom.*

Directly after his term of office as senator expired (March 3, 1807), he was again elected to the state legislature. It was during the time of the embargo, and Kentucky was on fire at the insolence of England in presuming to tax our ships. In December, 1808, Clay offered a series of resolutions denouncing the British orders and pledging to the general government the assistance of Kentucky in any course it might elect to defend our rights against Great Britain. In December, 1809, he was again sent to the Senate to fill an unexpired term. There, as we know, he made an important speech against the Bank, and one in favor of Madison's West Florida policy.† Upon this larger stage he gave expression to his feelings in such an emphatic way that

* Clay quoted Peter Pindar at the senator's expense:

"Thus have I seen a magpie on the street,
A chattering bird we often meet,
A bird for curiosity well known,
With head awry and cunning eye,
Peep knowingly into a marrow-bone."

† Washington Irving's comments upon Clay and his anti-Bank speech are suggestive: "Clay from Kentucky spoke against the Bank. He is one of the finest fellows I have seen here, and is one of the finest orators in the Senate, though I believe the youngest man in it. The galleries, however, were so much crowded with ladies and gentlemen, and such expectations had been expressed concerning his speech, that he was completely frightened and acquitted himself very little to his own satisfaction." — Life and Letters of Washington Irving, I., 273.

when Congress met in November, 1811, he was universally regarded as one of the leaders of the war party.

His election as Speaker marks an epoch in congressional history. With the temperament of the born leader, it was impossible for him to be a mere echo of the opinions of the executive, least of all where his feelings were so deeply aroused as they were in regard to our relations with England. In his hands the office of Speaker became one of great power, and the Lower House began to assume something of its present importance as the direct representative of the people.

On November 12, the House made it the duty of the Speaker to appoint a special Committee on Foreign Relations. Clay put upon the committee some of the strongest war men in the House, among them Peter Buell Porter, whom he made its chairman, John Caldwell Calhoun of South Carolina, and Felix Grundy of Tennessee, with some others, one of whom was John Randolph, who were opposed to war.

Committee on Foreign Relations.

On November 29, Porter, in behalf of the committee, made a report. It was the business of the executive, the committee seemed to think, to decide whether the Berlin and Milan decrees had been repealed. "It affords a subject of sincere congratulation," said the report, "to be informed through the official organs of the government that those decrees are, so far, at least, as our rights are concerned, really and practically at an end." After

characterizing in strong terms the demand of Great Britain that this country should require from Napoleon permission to take British goods into French ports, the report spoke of the impressment of American citizens. This was the first mention of impressment in any official document as a cause of war. The most significant paragraph in the report came near the end: "But we have borne with injury until forbearance has ceased to be a virtue. And the period has arrived when, in the opinion of your committee, it is the sacred duty of Congress to call forth the patriotism and resources of the country."

The report closed with a resolution recommending the immediate increase of the regular army by ten thousand men; the levy of fifty thousand volunteers; the fitting up of all vessels belonging to the navy and not in actual service, and the arming of merchant-vessels. Would the House adopt this report? If it did, it would seem that war was inevitable unless prevented by the Senate or by the President. But so, indeed, it had seemed in 1809, when the House by such overwhelming majorities adopted the resolutions of Campbell's report. Between the two occasions, however, there was this important difference: then the House had no leader; now it had a leader who was resolved that the British Parliament should no longer make laws for the commerce of the United States—the newly elected Speaker.

CHAPTER XIII.

DRIFTING TOWARDS WAR.

WHEN the resolutions submitted by the Committee on Foreign Relations came before the House, Felix Grundy showed that he had not forgotten the theories of Jeffersonian Republicanism. "What cost me more reflection than anything else," he said, "was the new test to which we are to put this government. We are about to ascertain by actual experiment how far our republican institutions are calculated to stand the shock of war, and whether, after foreign danger disappear, we can again assume our peaceful attitude without endangering the liberties of the people.* . . . The Federalists wanted standing armies in times of peace, not to oppose foreign enemies, but to encourage executive patronage, and also as a menace to the people themselves. If your minds are resolved on war, you are consistent; but if you are not resolved, pause and reflect, for should this resolution pass and you then become faint-hearted, remember that you have abandoned your old principles, and trodden in the paths of your predecessors." According to Grundy, a Republican could consistently vote for armies

Grundy's speech.

* Annals of Congress, 1811–1812, 423.

if he meant that they should be used for war. Jefferson would hardly have admitted that in 1801. He believed that wars led to taxes, debts, corruption, centralization—in a word, to the monarchizing of the government. Among Grundy's reasons for wishing to go to war was one which could hardly have been expected from a Southern Republican: it would result in the acquisition of Canada.

When John Randolph replied, he fell without mercy upon Grundy's attempt to show the consistency of the Republicans. "He knew not how gentlemen calling themselves Republicans could advocate such a war. What was their doctrine in 1798–9? . . . Will you say that your provocations were less then than now—when your direct commerce was interdicted, your ambassadors hooted with derision from the French court, tribute demanded, actual war waged upon you?"* Randolph showed a hearty contempt for the hair-splitting distinctions between "orders and decrees affecting our neutral rights" and "municipal decrees confiscating in a mass your whole property"—by means of which Madison tried to cheat himself and the country into believing that Napoleon had repealed his decrees. In characteristic fashion, Randolph gave expression to the horror with which a large part of the American people looked upon a war in which they thought we should virtually become the allies of Napo-

Randolph's reply.

* Annals of Congress, 1811-1812, 441.

leon. "And shall Republicans become the instruments of him who had effaced the title of Attila as the 'scourge of God'? . . . He could not give utterance to that strong detestation which he felt towards such characters as Tamerlane and Bonaparte. . . . Yet under all the accumulated wrongs and insults and robberies of the last of these chieftains, are we not in point of fact about to become a party to his views, a partner in his wars?"

Two days later, Calhoun replied. His speech was a vindication of the measure before the House as a preparation for war—not of the consistency of the Republicans in proposing it. In fact, he tacitly admitted that the theories of Republicanism had not stood the test of experience. In reply to the argument that the people would not pay taxes to support a war because the rights violated were not worth defending, he said: "Sir, I here enter my solemn protest against this low and calculating avarice entering this hall of legislation. It is only fit for shops and counting-houses and ought not to disgrace the seat of sovereignty by its squalid and vile appearance. . . . I know of only one principle to make a nation great, . . . and that is to protect every citizen in the pursuit of his business. Patriotism and protection are reciprocal. This is the road that all great nations have trod."* Most true, Jefferson would have said in 1801 of such a declaration. But the road which the United States

Calhoun's speech.

* Annals of Congress, 1811–1812, 479.

ought to travel is precisely that which great nations have not trod—the road which leads to individual liberty. Not the greatness of the nation, but the welfare of the individual, should be the aim of government. But the tendency of wars has been and ever will be to the enslavement and degradation of the individual even in the victorious nation. Randolph truly said that if a writ were to issue against the party of Old Republicans, "it would be impossible for a constable with a search-warrant to find it." Nevertheless the purpose for which the proposed army was intended did, as Grundy contended, furnish a ground of distinction between the Hamiltonian Federalists of 1798 and the Republicans of 1812. The former voted for an army as much that they might use it in suppressing domestic insurrections as in waging war against France. The latter had no fear of insurrections; their army was only to be used for contemplated war. Republicans like Grundy, Clay, Calhoun, Loundes, and Cheves occupied a position almost identical with that of the moderate Federalists in 1798—men like Rufus King, John Marshall, and the Southern Federalists generally. But they differed radically from the extreme wing of the Federalists, which had been represented by Alexander Hamilton.

On December 16, the resolutions recommended by the Committee on Foreign Relations were passed by an almost unanimous vote, and committees were appointed to bring in bills. During the debate the Federalists re-

mained silent. In a despatch to his government Foster explained the reason: "The Federal leaders make no scruple of telling me that they mean to give their votes for war, although they will remain silent in the debate. They say it will be a short war of six or nine months; and to my observation on the strange and dangerous nature of such a proceeding they shrug their shoulders, telling me they see no end to restrictions and non-importation laws but in war; that war will turn out the Administration, and then they will have their own way and make a solid peace with Great Britain."*

Conduct of the Federalists.

On December 19, the Senate passed a bill which had been introduced by Giles for raising twenty-five thousand regular troops, instead of ten thousand as the President through his Secretary of War had requested. If any doubt could have existed as to Giles' motive in forcing upon the President an army more than twice as large as he had asked for, his speech in defence of his bill made it thereafter impossible. He took occasion to make a virulent and vindictive attack upon Gallatin. "The gentlemen who express so much concern for the Treasury Department," he said, "tell us that the gentleman at the head of that department possesses the most splendid financial talents. . . . The honorable Secretary's financial

Giles' attack on Gallatin.

* MS. British State Papers. Foster to Wellesley, December 11, 1811.

reputation was made to his hand by others. . . . Until now the honorable Secretary has had no scope for the demonstration of his splendid financial talents. Of all the revenues receivable at the treasury, he knew of but one for which we are indebted to the suggestions of that gentleman. But against this may be placed the repeal of the salt tax, one of the most improvident measures ever adopted by this or any other government. He presumed that the Secretary at least yielded his assent to that measure."*

Will it be believed that the man who made this attack, an attack consisting of nine parts innuendo and one part direct assertion—the assertion that he *presumed* that Gallatin had given his consent to the repeal of the duty on salt—had himself voted for the repeal of the tax, and by his single vote had decided the question? To the utterly selfish and factious use which Giles made of his very considerable talents, his readiness to sacrifice the interests of the country to the gratification of his personal spite, are due the unenviable place he holds in American history.

The House finally agreed to his bill by a vote of sixty-seven to sixty, and on January 11 it became a law. On December 26, Porter introduced a bill to "accept" not exceeding twenty thousand volunteers, who were to have

* Annals of Congress, 1811–1812, 48.

the pay of regular troops, to be liable to service for one year, and to be officered according to the laws of the state in which they enrolled themselves for service. The debate on this bill showed that the Republicans could not take a step towards war without violating their principles. They had maintained that the country should remain at peace or, at most, engage only in defensive war. Either, then, the theories of Jefferson and the "Old Republicans" of 1798 were true and the resolutions, looking as they did to offensive war, ought to have been voted down, or those theories were false and the Republicans had been right in considering the resolutions on their merits. Having voted the addition to the regular army, consistency required the Republicans to be deliberately inconsistent—to acknowledge the inadequacy of their early theories to meet the new situation. But when the bill for accepting volunteers came before the House, the ghost of 1798 again appeared. These proposed volunteers would evidently be militia. For the constitution recognized but two kinds of land forces: the army, and the militia of the various states. It also authorized Congress to "provide for calling forth the militia to execute the laws of the United States, suppress insurrections, and repel invasions." But if the fifty thousand militia which were wanted for the invasion of Canada were thus used, they would be employed for a purpose not author-

Debate on the bill to accept fifty thousand volunteers.

ized by the constitution, a purpose wholly inconsistent with the position taken by the Republicans in 1798.

Cheves on the war power.

There was one Republican who dared to meet the question in the only way in which it could be met. "The power of making war," said Langdon Cheves, "is a great sovereign power whose limits and extent have long been established. . . . Do you ask for the right of Congress to employ the militia in war? It is found in the attributes of the sovereign power which Congress has to declare war. Do you ask for the limits to which this employment may extend? They are coextensive with the objects of the war." * Certainly the constitutionality of using militia for offensive war could be defended in no other way. But this was Hamilton's doctrine of implied powers. Clay supported the same view. "In cases of emergency the nation is at liberty to use . . . militia in any manner that may appear best calculated to preserve the public interest." On January 17, the House passed the bill, and, on February 6, it became a law.

Attempt to enlarge the navy.

As soon as the bill had been voted on, Langdon Cheves attempted to override another Republican tradition. He introduced a bill providing for an appropriation to build twelve 74-gun ships and twenty frigates. In this case the prejudices of his party were too strong for him. His bill was

* Annals of Congress, 1811–1812, 736.

lost by three votes. The smallness of the majority showed how rapidly the Republicans were learning to forget.

These war measures led to the consideration of war taxes. On January 16, Foster wrote to Wellesley that it was told him on good authority that when Bacon, chairman of the Committee of Ways and Means, called on Gallatin for information as to the means of raising the necessary money, Gallatin declined to submit his plans, assigning as his reason that he did not wish to dampen the military ardor of Congress. Whether or not the story is true, Gallatin's answer to a letter written December 9 by Bacon asking for information on the subject was not given until January 10, the day before the bill to raise twenty-five thousand regular troops became a law.

War taxes.

But when the answer was given, it certainly could not be charged with a lack of directness. In a conversation with the committee in the preceding December Gallatin had said that he did not feel "responsible for the nation's being in the position in which it now finds itself"; that it might "perhaps have been avoided by a different course of measures."* In his reply to the committee he made his meaning clear. He explained why he was obliged to recommend internal taxes after having said in the report submitted to Congress in 1808 that "no internal taxes,

Gallatin's war plan of finance.

* Adams' Gallatin, 450.

either direct or indirect, were contemplated even in the case of hostilities against the two great belligerent powers." That statement had been based upon the supposition that the Bank would be rechartered and that the other recommendations of the report would be adopted. If the Bank had been rechartered, the government could without difficulty have borrowed from it $20,000,000. The destruction of the Bank had thus decreased the ability of the government to borrow and consequently increased the necessity of taxation. Moreover, in the same report he had recommended a doubling of existing duties, which would have insured a balance in the treasury of $20,000,000. With that sum in the treasury and as much more available from the Bank, "internal taxes would have been unnecessary for at least four years of war." Gallatin told the committee that it was not his fault that the Republicans were compelled to ride roughshod over the traditions of the party.

But not only was a resort to internal taxes now necessary; loans would be more difficult to obtain, and would be made on less favorable terms. Nevertheless he still hoped that neither a perpetual and increasing public debt nor a permanent system of ever-increasing taxation would be entailed on the nation. But the only way to avoid these evils was to provide certain revenues. "To rely on indefinite loans not only to defray the expenses of the war, but the ordinary expenses of the government, and the interest on the loans themselves,

would be unsafe and ruinous"; it would in a short time "injure the public credit, impair the national resources, and ultimately render much heavier and perpetual taxes necessary."

Gallatin's theory being that loans should be relied on to defray the expenses of the war, but that the ordinary expenses of the government and the interest on loans should be paid out of the revenues of the government, he proceeded to state how sufficient revenues could be obtained. Accepting the estimate of the committee that $50,000,000 would pay the expenses of a four-years' war,* he had to suggest methods of obtaining revenue to the amount of $9,000,000 to pay the ordinary expenses of the government, and to the amount of $600,000 to pay the estimated interest on a loan of $10,000,000 for the first year. The revenues for each successive year of the war would have to be increased by an amount sufficient to pay the interest on the loan of the preceding year. By doubling the imposts and reimposing the Federalist tax of twenty cents a bushel on salt, Gallatin thought a revenue of $5,400,000 could be obtained. This, added to the estimated proceeds from the sale of public lands ($600,000), would leave a deficiency of $3,600,000. To provide for this deficiency and also for the expenses of collection and incidental losses, Gallatin recommended that $5,000,000 a year be raised by internal

* Although the war lasted but two years and a half, its expenses amounted to about $80,000,000.

taxation—$3,000,000 by a direct tax and $2,000,000 by licenses, duties on carriages and refined sugar, excise and stamps,—a recommendation that must have given a severe wrench to the man who had sympathized so actively with the opposition to the payment of the excise in Pennsylvania during Washington's first administration, and had been a leader of the party which had indulged in the unmeasured denunciations of the Federalist taxes of 1798.

When (January 20) Gallatin's letter was read in the House, it produced great excitement; the Republicans seemed to be surprised to learn that they could not imitate the Federalists in incurring war expenses without imitating them in laying taxes.

Report of the Committee of Ways and Means for raising revenue.

On February 17, Bacon presented the plan of the committee for providing the necessary revenues. It was in substance the plan of Gallatin and was based on Gallatin's theory: that it would be ruinous to rely on loans to defray the ordinary as well as the extraordinary expenses of the government. "If we suffer ourselves to yield to the new theory of borrowing both principal and interest," said Bacon, "we have no data by which to judge upon what probable terms loans may be obtained at all, or how long it will be before we must wind up business." *

A bill embodying the recommendation of the committee that the President be authorized to borrow $11,-

* Annals of Congress, 1811–1812, 1098.

000,000 at a rate of interest not exceeding six per cent passed both Houses of Congress, without much debate, and became a law March 14, 1812. The government was to have the right of paying the debt at the end of twelve years.

Action taken upon it by the House.

The committee's scheme for raising money was embodied in fourteen resolutions. The first, second, and third resolutions, providing respectively for doubling the duties on imports, retaining twenty-five per cent on all drawbacks allowed by law, and laying additional duties on tonnage, passed without much opposition. But the fourth resolution — reimposing the duty on salt — was negatived, February 28, by a vote of sixty to fifty-seven. On March 2, Gholson of Virginia, who had voted against the salt-tax resolution, moved to reconsider it on the ground that he had learned since the vote was taken that the "system presented by the Committee of Ways and Means was a system of compromise and concession, that it must be taken all together, the bad with the good. . . . Sooner than we should not provide for the expenses we have incurred to resist the encroachments of the enemy; sooner, in fine, than degrade and disgrace the nation, I believe it would be better to take the whole draught, just as it has been prepared; yes, sir, perhaps I might say, even if it were hemlock." *

* Annals of Congress, 1811-1812, 1118.

Wright of Maryland, a very strong war man, opposed the motion with great vehemence and in language that betrayed one of the influences that had been decisive in shaping the course of Congress for several years past — personal dislike of Gallatin. "At the last session," he said, "when the question for rechartering the odious British Bank was before us, we had to encounter the influence of the Secretary of the Treasury. . . . Now, at this session, he has told us that if we had a national bank we should have no occasion to resort to internal taxes, thereby calling the American people to review the conduct of their representatives in not continuing that Bank, and thereby to fix the odium of these taxes on the national legislature." (It will be observed that Wright neglected to show that Gallatin was mismistaken.) "Sir, is there anything of originality in this system? No, it is treading in the muddy footsteps of his official predecessors. . . . We all recollect the clamor against Mr. Adams' administration for the system of odious stamp-taxes and excises. . . . When Mr. Jefferson came into office, he as President advised us to put down these odious taxes, and we repealed the law; he also advised us to repeal the tax on salt as oppressive to the poor, and we did so. And now . . . we are to be pressed into a system known to be odious in the sight of the people and which on its first presentation, in a letter from the Secretary of the Treasury to

the Committee of Ways and Means, and by them submitted to us, produced such excitement in this House." *

But Gallatin was at last master of the situation; the motion to reconsider the salt-tax vote was carried by a vote of seventy to fifty-three, and, on March 4, the ten remaining resolutions were carried.

The thirteenth resolution stipulated that the duties and taxes specified in the preceding resolutions should not be laid until war was actually declared, and the fourteenth provided that they should continue until one year after the close of the war, when they should be repealed. As soon as they were passed, they were referred to the committee with directions to report by bill. Bacon sent them to Gallatin.

Vividly as Gallatin realized the necessity of providing revenues to meet the ordinary expenses of the government and to pay the interest on the loans made to carry on the war, he did not prepare tax bills until after the declaration of war. He knew how hostile the Republicans were to the system of taxes which he had recommended; by a vote of sixty to fifty-four they had even refused to order the printing of his letter to Bacon. He doubtless realized that nothing but the pressure of absolute necessity would induce the Republicans "to travel in the muddy footsteps of their predecessors." It may fairly be surmised,

Gallatin's procrastination in preparing tax bills.

* Annals of Congress, 1811–1812, 1123.

also, that his procrastination was in part due to the hope that the utterly futile and fatuous Non-importation Law might be repealed, which would have made internal taxes unnecessary At any rate, he did not prepare the bills until an attempt to repeal that law had failed.

Foster's despatch on war taxes.

On March 9, Foster wrote to Wellesley that "scarcely a man of sense considers it will be possible to raise the money required without the assistance of nearly as great an army to enforce collection of taxes as has been voted for the invasion of Canada"* Doubtless the men of sense who so obligingly gave the British minister the benefit of their opinions were Federalists. A few weeks before, two of their leaders had given Foster their opinion in some detail as to the course which it was to the interest of the British government to pursue. "Two Federal leaders waited on me yesterday," he wrote to his government, "and after expressing their conviction how embarrassed I must be to form a correct opinion of the state of things here, and to manage so as neither to appear to laugh at the ridiculous situation of the government nor yet to show so little sagacity as to be seriously alarmed, proceeded to explain that the object of their visit was to declare to me what they considered to be the best course which my government could take in order to produce a thorough amal-

Federalists advise Foster.

*MS. British State Papers.

gamation of interests between America and England. The sum of these suggestions was that we should neither revoke our Orders in Council nor modify them in any manner. They said this government would, if we conceded, look upon our concessions as the result of their own measures, and plume themselves thereon; that they only wanted to get out of their difficulties, and if we made a partial concession, they would make use of it to escape their pledge to go to war, still, however, continuing their restrictive system. Whereas, if we pushed them to the edge of the precipice by an unbending attitude, that then they must be lost, either by the disgrace of having nearly ruined the trade of the United States by their system of commercial restrictions and yet failed to reduce the trade of Great Britain, or else by their incapacity to conduct the government during war. These gentlemen declared that they were for war rather than a continuance of the restrictive system, even if the war should last four years." *

On February 12, a Federalist of influence had written to Foster to the same effect: "If the present experiment fails, as you can make it, neither Great Britain nor America will ever be cursed with a repetition of it. It will have died for ever in disgrace. But the non-importation system will be dissolved before the end of the session, without any concession on your part. The New

* MS. British State Papers. Foster to Wellesley, February 2.

England Democrats in Congress aver that their popularity depends on its repeal. The threatened war is not even a bugbear. They have not recruited twenty-five men in this city these six weeks, . . . and the public papers will have convinced you that no volunteers are offering."*

On the same day that Foster wrote this despatch, Madison startled Congress by submitting certain documents which he had bought for fifty thousand dollars of an Irish adventurer named John Henry. Accompanying the documents was a message in which Madison said that at a time when the United States was at peace with Great Britain, "a secret agent of that government was employed in certain states . . . in fomenting disaffection to the constituted authorities," and "in intrigues with the disaffected to bring about resistance to the laws," and ultimately to break up the Union and unite New England with Great Britain.

John Henry.

What the documents actually proved was that on February 6, 1809, when the embargo was rapidly driving New England to open insurrection, and when the avowed policy of the President-elect was to follow up the embargo with war, Sir James Craig, Governor-General of Canada, sent John Henry to Boston "to obtain the most accurate information of the state of parties there, . . . the state of public opinion with regard to their internal

* MS. British State Papers. Foster to Wellesley.

politics, and to the probability of a war with England; the comparative strength of the two great parties," and their views and designs. As to the execution of his instructions, it is sufficient to say that he gave his employer the benefit of his observations and opinions very much as the British minister at Washington was reporting to his government at London. Upon the Republicans generally, as upon Madison, they made the impression that the British government was engaged in a dishonorable attempt to break up the Union and "to involve our citizens in the guilt of treason and all the horrors of civil war." But the verdict of history must be that no such charge was proved.*

On March 2, Foster, in obedience to the commands of his government, made a statement to Monroe which seemed to leave to this country no choice but to retreat or go to war: the Prince Regent would not revoke the Orders in Council.

Only two days later, the House of Representatives was informed that a French squadron, by order of Napoleon, was burning American vessels on the ocean. Timothy Pitkin of Connecticut read the deposition of an American captain, Samuel Chew, made before a magistrate, that his brig

French squadron burns American vessels by order of Napoleon.

* The attitude of the Federalists towards England is clearly shown by what they thought of Madison's disclosures. "Some of the influential leaders were so infatuated," Josiah Quincy wrote, "in their belief of the character of British diplo-

was captured by a French squadron on February 2; that he was informed by the officers of the squadron that they had recently captured and burnt the American ship "Asia" and the American brig "Gershom," the crews of which vessels were then on board the French ships; that he was told by the French commander that he had orders from his government "to burn all American vessels sailing to or from an enemy's port"; and that the commander gave to the deponent a signed statement asserting that the vessels were captured in pursuance of instructions of the Minister of Marine and the Colonies.*

Embarrassing position of the American government.

The despatches of Serurier clearly indicate in what an embarrassing position the American government was placed by this new outrage on the part of France. "I am just from Mr. Monroe's office," he wrote, March 23; "I have never seen him more agitated. He addressed me abruptly: 'Well, sir, it is then decided that we are to receive nothing but outrages from France! And at what a moment, too! At the very instant when we were going to war with her enemies. . . . Remember where we were two days ago. You know what warlike measures have been taken for three months past. . . . We have made use of

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macy, that they at first discredited altogether Craig's letter to Henry, pronounced it a forgery, and declared that it was utterly incredible that a British governor should have been engaged in employing a spy in the Eastern states for any such purpose."

* Annals of Congress, 1811-1812, 1234, 1235.

Henry's documents as a last means of exciting the nation and Congress. . . . Within a week we were going to propose the embargo, and the declaration of war was the immediate consequence of it. A ship has arrived from London bringing us despatches to February 5 which contain nothing offering a hope of the repeal of the orders; this was all that was needed to carry the declaration of war, which would have passed almost unanimously. It is at such a moment that your frigates come and burn our ships, destroy all our work, and put the Administration in the falsest and most terrible position in which a government can find itself placed. . . . Should the executive now propose the embargo or the declaration of war, the whole Federalist party, reinforced by the Clinton party, the Smith party, and the discontented Republicans, would rise in a mass and demand why we persist in making war on England for maintaining her Orders in Council when we have proof so recent and terrible that the French decrees are not withdrawn." *

On April 1, only nine days after Monroe's conversation with Serurier, Madison sent a confidential message to Congress recommending an embargo for sixty days. Clay, as we learn from Monroe's correspondence, had suggested to Madison an embargo for thirty days, to be followed by war. But in the debate on the bill laying the

Madison recommends an embargo.

* Serurier to Maret. Archives des aff. Etr.

embargo, introduced April 1 by Porter from the Committee on Foreign Relations, it appeared that the members of that committee did not agree as to Madison's intention in recommending it. Grundy understood it to be a war measure, but Randolph did not. Randolph read notes which he had taken of a conference between the Secretary of War and the committee, from which it appeared that Monroe had said that the President thought war ought to be declared before Congress adjourned unless Great Britain gave way; that Madison would recommend an embargo if he could be assured that it would be acceptable to the House; and that the embargo would leave the policy of the country in relation to France and England in our own hands.* But Grundy and Calhoun did not remember that Monroe had made the last statement. Madison, however, wrote Jefferson (April 3) that an embargo was recommended for sixty days "as a step" towards war.

The Federalists afterwards declared that Madison was coerced by a committee of war members into consenting to a declaration of war.†

Was Madison coerced into consenting to war?

In 1813, A. C. Hanson, a Maryland Federalist of the Pickering stripe, said in the House of Representatives, addressing Clay: "You know, sir, that the President was coerced into the measure [the declaration of war]; that a committee called upon

* Annals of Congress, 1811-1812, 1587, 1593.
† Statesman's Manual, I., 348.

him and told him that if he did not recommend a declaration of war he would lose his election." Timothy Pickering, intensely desiring to overwhelm Madison and his party with shame and disgrace, wrote to Hanson asking his authority for the statement. Hanson told him that he got the story from Abraham Shepherd; whereupon Pickering asked Shepherd to give him all the information he possessed on the subject. Shepherd replied that Senator Worthington of Ohio had told him, about the beginning of April, 1812, that war was inevitable, but that Bayard would first be sent to England to make one more effort to prevent it; that Madison had consented to nominate him, and he had agreed to go; that, in a conversation with Worthington after the declaration of war, the Ohio senator explained why Bayard was not sent to England: "Mr. Madison told him [Worthington] that his friends [he said Clay was the chief] had waited upon him and said that if he did send Mr. Bayard to England they would forsake him, . . . and he was compelled to comply with their wishes." *

This letter, taken in connection with the action of Congress in reference to the embargo, and with a letter from Madison to Jefferson, probably furnishes the explanation not only of the charge against Madison, but of Madison's conduct. The House voted the embargo for sixty days, but in the Senate a motion to extend it to

* Adams' Gallatin, 457, 458.

ninety days passed without opposition, and in that form the bill became a law. Three weeks after the law was passed (April 24), Madison explained the vote to Jefferson: "Its extension to ninety days proceeded from the united vote of those who wished to make it a negotiating instead of a war measure; of those who wished to put off the day of wàr as long as possible, if ultimately to be met; and of those whose mercantile constituents had ships abroad which would be favored in the chance of getting home."*

There were then Republicans who wished to make the embargo "a negotiating instead of a war measure." One does not hazard much (in view of Shepherd's letter to Pickering and of Madison's characteristic caution) in saying that this party urged the President to make one more effort to preserve peace, and that Madison was not unwilling to do it; but that Clay and the leading war men gave him to understand that he must give up the contemplated mission or lose their support, and that Madison accordingly gave up the mission. Men with a definite policy generally control those who are willing to let events take their course. The very completeness with which Madison realized all the difficulties that beset the country, whether it went to war or not, may have made him willing to act the part of a passenger and let the ship drift whithersoever it would.

* Works, II., 553.

But Clay and his friends had made up their minds; they were determined that, come what would, war should be declared unless England gave way. In the debate on the embargo, Clay said: "Sir, after the pledge we have made and the stand we have taken, are we now to cover ourselves with shame and indelible disgrace by retreating? . . . He did not think we were on this occasion in the least embarrassed by the conduct of France in burning our vessels; that may be a subject of future consideration. We have complete evidence as to the enemy we have selected."*

On April 10, a law was passed authorizing the President to call into service for six months a hundred thousand militia.

The Administration's defence of its disregard of the new French outrage.

We learn from Foster's despatches how the administration defended its disregard of the new French outrage: "He [Monroe] told me that the President could not now entertain the question as to whether the French decrees were repealed, having already been convinced, and declared that they were so. He said that the American ships which were burned could not be said to come under the Berlin and Milan decrees, however objectionable the act was to this government; that the declaration of the French commodore of his having orders to burn all ships to or from an enemy's port was given only verbally, and

* Annals of Congress, 1811-1812, 1589.

might not have been well understood by the American captain, who did not very well understand French; while the declaration in writing only alluded to ships bound to or from Lisbon and Cadiz."*

On April 6, Gerry, who had been elected Governor of Massachusetts in 1810 and again in 1811, was defeated by the Federalist Caleb Strong — which left no doubt as to what Massachusetts thought of the preparations for war. On May 1 and 2, subscriptions were opened in various state banks all over the country for the loan of eleven million dollars; only a little more than six millions were subscribed. Little wonder that the opposition continued to maintain that the embargo could not be meant as a precursor of war.

Only six of the eleven millions subscribed.

"Where are your armies?" asked Blecker in the House, May 6. "Where is your navy? Have you money? No, sir, rely upon it, there will be, can be, no war — active, offensive war — within sixty days."

But as if England were determined to leave nothing undone to drive the country into war, Castlereagh, who had succeeded Wellesley in the English Foreign Office, wrote a despatch to Fo[illegible] in which he said that England wo[illegible] repeal her orders until France revoked her [illegible] only as respected the United S[illegible]tes, but [illegible]

England requires the unconditional revocation of the French decrees.

* Foster to Wellesley, April 1,

unconditionally. That despatch reached Foster May 22, and was by him put into the hands of Monroe. It left Madison no alternative. "With this formal notice," he said many years afterwards, "no choice remained but between war and degradation — a degradation inviting fresh provocations, and rendering war sooner or later inevitable."*

* Works, III., 554.

CHAPTER XIV.

THE DECLARATION OF WAR.

AS late as May 25, Madison seems to have been undecided whether to recommend a declaration of war against England alone or against both England and France. On that date, he wrote a letter to Jefferson in which he explained the difficulties: "The business is become more than ever puzzling. To go to war with England and not with France arms the Federalists with new matter and divides the Republicans, some of whom with the Quids [the followers of Randolph] make a display of impartiality. To go to war against both presents a thousand difficulties; above all, that of shutting all the ports of the continent of Europe against our cruisers."*

Madison undecided about going to war with England alone.

Up to almost the very last there were well-informed men in Washington who did not believe that Madison meant to go to war with England. On May 3, Foster explained to his government why Madison had not yet been renominated: "The reason is, as I have been assured in confidence, because the war party have suspected him not to have been serious in his hostile measures, and wish previously to ascertain his real sentiments." He was not finally nominated until May 18.

* Works, II., 535.

When Madison wrote the letter just cited, Foster had not yet made known the brutal demand of his government.* That demand settled the question. On June 1, precisely a week later, he sent a message to Congress in which he indirectly recommended a declaration of war. Of the four grievances alleged against England—the impressment of American seamen, the violation of the peace of our coasts and the harassing of our entering and departing commerce, the pretended blockades, the Orders in Council—impressment was made to take the first place. The message also contained a tacit admission that the discrimination against England in favor of France had been a mistake. "Since the revocation of her decrees [those of France] as they violated the neutral rights of the United States, her government has authorized illegal captures by her privateers and public ships." What were illegal captures but violations of the neutral rights of the United States?

Madison's war message.

On June 3, Calhoun, from the Committee on Foreign Relations, to which the message had been referred, made a report recommending an "immediate appeal to arms." The minority, having failed in repeated attempts to secure a

Action of the House on the war message.

* Madison's silence as to any such demand when he was telling Jefferson how matters stood between us and England may fairly be regarded as proof that he was ignorant of it.

public discussion, resolved not to debate the bill for the declaration of war. It passed June 4 by a vote of seventy-nine to forty-nine.

The action of the Senate was marked by no such haste. Not until the 8th of June—a week after the war message was received—did a committee report the House war bill with amendments.

Action of the Senate upon the war message.

On June 11, the Senate, by a vote of seventeen to thirteen, instructed the committee to amend the bill so as to empower the President to authorize the public armed ships of the United States to make reprisals upon the ships of Great Britain and British subjects; and also to grant letters of marque and reprisal to private armed ships. On June 12, the amended bill was reported. A motion to subject French ships and subjects also to reprisals was lost by only two votes. On the question to amend the House bill as reported by the committee, the Senate was equally divided; Giles, who had voted to instruct the committee to amend the House bill, now voted against the amendments. The question was therefore lost and the original motion was resumed. Bayard said: "When the bill before us was first brought up from the other House, it was the opinion of very few that it would obtain the support of this body."* With an empty treasury, with an

* Annals of Congress, 1811–1812, 289.

army of but nine thousand men,—the larger part of which was spread all over the United States, and the remainder consisting of raw recruits unfit for actual service,—with so little popular support of the war that the government had been able to borrow only six of the eleven millions with which it expected to wage it, there is little wonder that many senators thought a declaration of war would be premature. Not until June 17 did the bill finally pass the Senate by a vote of nineteen to thirteen, and then not until a motion to amend it so as radically to change its character had been lost by only four votes. It was signed by the President the next day. Sixty-two of the seventy members of the House and fourteen of the nineteen senators who voted for the war represented states south of the Delaware; the members from the Northern states, whose constituents were the chief sufferers from the outrages of England, voted against it.

After passing the bill to declare war, the House again took up the question of revenue. On June 9, Langdon Cheves, chairman of the Committee of Ways and Means, wrote to Gallatin inquiring whether the Non-importation Law might not be modified or partially suspended so as to afford a revenue equal to the amount of the proposed internal taxes, additional tonnage duty, and diminution of drawbacks. Gallatin replied that those taxes might be dispensed with if the Non-importation

The House again takes up the question of revenue.

Law were suspended.* Cheves thereupon (June 19) introduced a bill suspending the several Importation Acts, to which an amendment, repealing them altogether, was moved on June 23 by the Federalist Richardson of Massachusetts. The debate on Richardson's motion was short, but it sufficed to give one more illustration of the operation of the new forces that were quietly but certainly changing the course of American history. The motion was supported by a new member, a young man hardly thirty years old, who, while calling himself a Republican, completely demolished the theory which had determined the foreign policy of this country since 1801. "The restrictive system as a mode of resistance," said John Caldwell Calhoun, "and a means of obtaining a redress for our wrongs, has never been a favorite one with me. I wish not to censure the motives which dictated it, or attribute weakness to those who first resorted to it for a restoration of our rights. But, sir, I object to the restrictive system, and for the following reasons: it does not suit the genius of our people, or that of our government, or the geographical character of our country. We are a people pre-eminently active. Our schemes and prospects extend everywhere and to everything. No passive system can suit such a people, in action superior to all others, in patience and endurance inferior to many.

Calhoun's speech on the restrictive system.

* Writings of Albert Gallatin, I., 519.

Nor does it suit the genius of our government. Our government is founded on freedom and hates coercion. To make the restrictive system effectual requires the most arbitrary laws. . . . The peculiar geography of our country greatly increases the difficulty. With so great an extent of seacoast, with so many rivers, bays, harbors, and inlets; with neighboring English provinces which stretch for so great an extent along one of our frontiers, it is impossible to prevent smuggling to a large amount. . . . Even where equally successful, the contrast between war and restriction is equally striking. War and restriction may leave the country equally exhausted; but the latter not only leaves you poor, but, even when successful, dispirited, divided, discontented, with diminished patriotism and the manners of a considerable portion of your people corrupted. Not so in war. In that state the common danger unites all—strengthens the bonds of society, and feeds the flames of patriotism. . . . I would prefer a single victory over the enemy by sea or land to all the good we shall ever derive from the continuation of the Non-importation Act."

Richardson's motion was lost by only three votes. An influence more powerful than Calhoun's reasoning worked in its favor—the fact that the repeal of the restrictive laws would be an act done in defiance of Napoleon. The very day that Cheves introduced his bill, news arrived that

Motion to repeal the Non-importation Act voted down.

French frigates were still burning American ships on the high seas. On June 25, Richardson made another effort to effect the repeal. When the question came to a vote, the House was equally divided, and the motion was lost by the casting vote of the Speaker.

Consideration of tax bills postponed.

On June 26, Bacon, from the Committee of Ways and Means, reported sundry bills for laying direct and internal taxes. A resolution to postpone the consideration of them until the first Monday in the following November was at once offered. The motion prevailed by a vote of seventy-two to forty-six, Calhoun, Cheves, Macon, and Lowndes voting with the Federalists against the postponement. On June 30, a law was passed authorizing the issue of $5,000,000 of treasury notes, payable at the end of a year from the date of issue, receivable in payment of duties, taxes, and the public lands, and to bear interest at the rate of five and two-fifths per cent. On July 1, a law was passed which provided for doubling existing duties; and on July 6, Congress adjourned.

Programme of Federalist leaders.

The Federalist leaders, as has been said, avowed, in conversation with Foster, their preference for war to a continuation of the restrictive system. But most of the Federalists voted against the measures that were enacted with a view to war. Of the thirty-four Federalist members of the House who signed an address to their constituents on the subject of the war, only five voted for the army of

twenty-five thousand men, seven for the law which authorized the President to accept fifty thousand volunteers, and six for the loan of eleven millions of dollars.

The Federalist factions were indeed equally opposed to the war. But the minority which voted for the war measures thought that Congress would not declare war if these measures failed of their purpose. They voted for twenty-five thousand regulars and fifty thousand volunteers and a loan of eleven million dollars, and at the same time did all they could to render these measures futile. On May 3, Foster wrote to Wellesley that he was confidentially informed that the Federalists had agreed among themselves not to subscribe to the loan, and not to accept military commissions. The Federalist leaders reasoned that inasmuch as the war party had put off the declaration of war in order to get ready for it,—if the war measures failed of their purpose, if the regulars and volunteers were not raised, if the money was not borrowed,—the Republicans would not be guilty of the rashness of going to war with such a country as England. Their purpose was to confront the Republicans with a dilemma on either horn of which they would be impaled: if the Republicans declared war, their lack of preparation for it, and inability to carry it on successfully, would cause the people to drive them out of office; if they did not declare war, if, after all of their bluster, they backed down, they would prove that they could

not be "kicked into war," and this would be equally fatal to them as a party.*

That the Federalist leaders were willing to play so hazardous a game reveals them in an attitude which cannot be mistaken. To drive the Republicans out of office, they would force the country into a position where it must either engage in a war for which it was unprepared or yield abject submission to England after having made repeated threats of war. That they could forget that they were unable to bring confusion, disgrace, and disaster upon the Republicans without bringing it upon the country, shows that among the virtues upon which they prided themselves they could not reckon the virtue of patriotism. Monroe told Foster in May that he should feel like a man disgraced and ashamed to show his face if, after the steps that had been taken, they should submit, and that he would rather quit the United States at once and go to a country that had a government which would make itself respected.† What the Federalist leaders were saying to Foster was, that if the British government should maintain its ground, it would compel the United States to back down, and cover the Administration with shame.

Conduct of the Federalists characterized.

* See, in the Life and Correspondence of Rufus King (V., 283), a letter from C. Gore to King for a different estimate of their motives.

† Foster to Wellesley, May 3. British MS. State Papers.

When the Federalists were brought to commit themselves as to peace or war, they voted solidly, as has been said, against the declaration of war.

Address published by the Federalists.

A few days later, the Federalists in the House published an address alleging as their reason that, the declaration of war having been made in secret session, they had been deprived of the opportunity of explaining to their constituents the grounds of their action.* It did not occur to them that the stronger those grounds the more imperative was the reason for withholding them from the public; that the more successfully they justified their action the more they would divide the people and weaken the government in the face of the enemy.

The address took up in succession the principal topics of complaint against England, and endeavored to show that neither singly nor combined did they justify a declaration of war. Perhaps not. But war had been declared; of what avail was it to show that it had not been wisely done? Were the Federalists mere academicians, or were they practical men, bound to adjust their actions to existing conditions? Arguments however cogent could neither recall the declaration of war nor beat the enemy. We had declared war; and, to prosecute it, not arguments but armies and money were needed.

* Niles, II., 309.

They said that it would be some relief to their anxiety if amends had been made for the weakness and wildness of the project by the prudence of preparation. But, instead of that, they saw only a headlong rushing into difficulties. Did they not know that their address would increase those difficulties? Was it not written for that very purpose? One thing only could justify their course: if the declaration of war was so grave a mistake as to make it clear that the best interests of the world would be promoted by our defeat and humiliation, they were right. As a matter of course, then, when we were about to "enter into the lists against the greatest marine on the globe; when we had declared war against a power which, without putting a new ship into commission or taking another soldier into pay," could "spread alarm and desolation along the extensive range of our seaboards," it was fitting that the Federalists should do what they could to tie the hands of the President when he was endeavoring to marshal the strength of the country against its formidable enemy.

Some such notion as this seems to have found lodgment more or less securely in their minds. "It cannot be concealed," said the address, "that to engage in the present war against England is to place ourselves on the side of France, and expose us to the vassalage of states serving under the banner of the French Emperor." Why did it not occur to them that at any time during the preceding five years it had been in the power of the British gov-

ernment to cause us to put ourselves on the side of England against France simply by ceasing to treat us as a colony?

It soon became evident that the Federalists of New England were going to follow the example of the Federalists in Congress. On June 26, 1812, the House of Representatives in Massachusetts issued an address to the people of the State urging them to organize a peace party.* "To secure a full effect to your object it will be necessary that you should meet and consult together for the common good in your towns and counties. . . . Express your sentiments without fear, and let the sound of your disapprobation of the war be loud and deep. Let it be distinctly understood that in support of it your conformity to the requirements will be the result of principle and not of choice. If your sons must be torn from you by conscription, consign them to the care of God. But let there be no volunteers except for defensive war." The New England clergy, who still wielded a powerful influence over the members of their churches, denounced the war as a crime against humanity, and exerted themselves to prevent every effort to assist it either by money or by men. On August 5, Governor Strong of Massachusetts wrote Secretary of War Eustis that the Supreme Court of the state had decided that it was his duty as gov-

Action of the Massachusetts House of Representatives.

* Niles II., 417.

ernor of the state to determine when the President had a right to call the state militia into the service of the United States, and, in his opinion, that time had not come, as the militia were not needed to execute the laws of the Union, to suppress insurrections, or repel invasions — the three cases in which the constitution authorized the President to call out the militia.* Evidently the Federalists proposed to give the government the ounce of service required by the constitution — not a grain more.

Circumstances that palliate the conduct of the Federalists.

But though in the clear light of history their attitude cannot be mistaken, we should prove that we are ourselves blinded by prejudices almost as strong as theirs if we fail to perceive how strong were the influences which induced them to take the ground they did. The naked fact is that we were making war on England because Napoleon had duped the government into trying to believe that he had revoked his decrees. The talk about impressment as a cause of war was, as Hildreth says, an after-thought. Nothing is clearer than that, as the Federalists knew, if Cadore had not written his lying fifth-of-August letter, no one would have contended that there was any reason for singling out England as our antagonist. And when we remember the pecuniary interests involved — that a recent report to Congress had shown that our trade with

* State Papers, Military Affairs, I., 323, 324.

Great Britain amounted to more than $45,000,000, while that with France and Italy amounted to less than $200,000; that Napoleon was not far behind England in his captures and confiscations of American ships notwithstanding his comparative lack of opportunity;* above all, when we realize that the Federalists regarded Napoleon with all the horror with which they had viewed the French Revolution, that they felt that to make war on England was in a sense to become the ally of that incarnation of despotism, we can the more easily understand that, after war was declared, they failed to see that the issue had entirely changed,—that the question as to the cause of the declaration had no bearing on the duty of American citizens.

On the 8th of April, the state of Louisiana was admitted into the Union, and within a week (April 14) the part of West Florida which the United States had taken possession of was annexed to it. A previous chapter has told that Madison requested Congress to give him authority under certain contingencies to take possession of East

Madison and the Floridas.

* According to a document sent to Congress July 6, 1812, Great Britain had captured nine hundred and seventeen American vessels since the commencement of the war with Napoleon in 1803, France five hundred and fifty-eight, Denmark seventy, and Naples forty-seven. The report did not mention the captures made by Holland and Spain, which, like those of Denmark and Naples, were to be charged to the account of Napoleon.

Florida. Acceding to his request, Congress authorized him to send commissioners thither, and, if the local authorities consented, to occupy the territory; — authorized him, in other words, to send commissioners to East Florida to play a part very similar to that which John Henry had been supposed to play in New England.

In January, 1811, Madison ordered General George Matthews, whom he had sent as commissioner to East Florida, to take possession of that territory in case the local authorities wished it, or in the event of British interference. On August 3, in a despatch to Monroe, Matthews outlined the course which he thought it advisable to take: "I ascertained that the quiet possession of East Florida could not be obtained by an amicable negotiation with the powers that exist there." The inhabitants of the province were ripe for revolt, he said, but they could not succeed without aid. If he put into their hands two hundred stands of arms and fifty horsemen's swords, he was confident that they could commence the business with a fair prospect of success. In short, Matthews reasoned thus: The plan you have outlined for me cannot be carried out. You have instructed me to take possession of East Florida if the local authorities consent. That, however, they cannot be prevailed on to do. But their unwillingness to do what they have no legal right to do is a matter of no consequence in view of the fact that the inhabitants are willing to do the same

Matthews' opinion as to the proper course.

thing. You have instructed me to use means which are illegal. Why not take possession of East Florida with the aid of the people, who have quite as much right to set the local authorities at defiance as the local authorities have to disobey the home government?

Not a line was written to Matthews from Washington to show him that his plan was disapproved of. Nine months later, with such reasons for thinking that his conduct would receive the approbation of the government, he proceeded to carry his ideas into effect. On March 16, 1812, two hundred insurgents, backed by American gunboats, summoned the garrison of St. Augustine to surrender. When the Spanish commander surrendered, the West Florida comedy was re-enacted with a somewhat more rapid change of parts. "The flag of the patriots [he meant the rebels who were trying to overthrow their government] was immediately displayed on the ramparts of the fort, which was soon succeeded by the flag of the United States."* To Matthews' disgust and astonishment, he received a letter from Monroe, a few weeks later, telling him that the measures he had adopted for taking possession of East Florida were not warranted by his instructions. Why Matthews was not told beforehand that the course he had intimated as proper to be

Matthews carries out his policy.

The government disavows him.

* Niles, II., 93.

taken was not approved of, Monroe did not see fit to explain. Monroe's letter contained one sentence which showed that he was not remarkable for a sense of humor: "I may add that, although due sensibility has been always felt for the injuries which were received from the Spanish government in the last war, the present situation of Spain has been a motive for a moderate and pacific policy towards her!" *

But the question was how to disavow Matthews and yet keep the territory he had arbitrarily taken possession of. The Administration was equal to the occasion.

The government retains the territory Matthews had taken.

On May 27, Monroe wrote to D. B. Mitchell, who had been appointed in Matthews' place, saying: "It is not expected, *if you find it proper to withdraw the troops,* that you should interpose to compel the patriots to surrender the country, or any part of it, to the Spanish authorities. The United States are responsible for their own conduct only, not for that of the inhabitants of East Florida." (The soundness of this reasoning is not beyond question in view of the fact that the inhabitants had done what they had under the influence of the agents of the United States.) "Indeed, in consequence of the compromitment of the United States to the inhabitants, you have already been instructed not to withdraw the troops, unless you find that it may be done consistently with their

* State Papers, III., 572.

safety, and report to the government the results of your conferences with the Spanish authorities, with your opinion of their views, *holding in the mean time the ground occupied.*"* As Great Britain had disavowed the attack upon the "Chesapeake" and yet had for four years refused to release the men taken from her, so the American government wished to disavow Matthews without giving up his spoils.

Governor Mitchell understood Monroe and acted accordingly. On December 12, 1812, the Spanish governor of St. Augustine told Mitchell that he had taken part in an "infamous aggression on a friendly power." His language was even stronger than that used by Madison in characterizing John Henry's mission to Boston. Perhaps the difference was due to the Spanish temperament of the governor of St. Augustine.

Remarks of the Spanish governor.

On June 25, by a vote of seventy to forty-eight, the House of Representatives passed a bill authorizing the President to take possession of the whole of East and West Florida. When the bill came to a vote in the Senate, eight Republicans joined the Federalists to prevent the Congress of the United States from lending its sanction to this "infamous aggression," and defeated it by a majority of

Action of Congress with reference to the Floridas.

* State Papers, III., 573. Italics not in the original.

two. But, in spite of this vote, Madison kept possession of the territory which Matthews had taken — after refusing to order one agent to give up the territory which another agent had been reproved for seizing without authority!

CHAPTER XV.

WAR LEGISLATION.

WHEN Congress met in November, 1812, the situation had radically changed since its adjournment in July. Five days after war was declared, the English government revoked its orders. Napoleon's fraudulent decree — which Castlereagh characterized as a disgrace to any civilized State — gave it an excuse for receding from a position which was bringing on war with the United States and which, through our Non-importation Law, was involving English manufactures in ruin. Foster heard of the repeal at Halifax. He immediately held a consultation with Vice-Admiral Sawyer and Sir John Sherbroke, the result of which was that they agreed that all vessels captured after a day to be thereafter determined should not be proceeded against immediately, but should be detained to await the future action of England and the United States. Foster also wrote at once to the Governor-General of Canada advising him to propose an armistice, and the latter took action accordingly. A provisional arrangement was made (August 9) between the British commander and General Dearborn, who commanded the American troops in New York, according to which neither party was to act offensively until the American government

Repeal of Orders in Council.

Armistice proposed.

had decided whether it would make war on England now that the Orders in Council were repealed.

Madison's decision.

On August 13, when Dearborn's letter announcing the armistice was delivered to Madison, the question of peace or war awaited his decision. He knew then that he had been the dupe of Napoleon. Napoleon had declared to all the world that his Berlin and Milan decrees were not repealed until April 28, 1811, and then only in consequence of the Act of Congress of March 2, 1811 — the act which was passed on the ground that the decrees had already been revoked. Madison knew that the proclamation which contained this declaration was fraudulent — that the French decrees had never been repealed. The repeal of the English orders gave him a chance to escape from the trap into which he had been lured by Napoleon. Would he take advantage of it? Would he assume the responsibility of seeming to say that it was proper to wage war on grounds which had not prevented him from offering to remove the embargo in 1808 and the Non-intercourse Law in 1809 and 1812? He had learned that he had "seditious opposition" to expect from New England. He knew that he would have to depend on militia. He knew that the treasury was empty, and that to supply it resort must be had to loans (which the experience of the last few months had convinced him could be made only with great difficulty) and taxes (which Congress had refused to impose even after the declara-

tion of war). He knew that if, after the repeal of the Orders in Council, he rejected the armistice, three fourths of the Federalists would regard it as proof that he was in league with Napoleon. Nevertheless he did not hesitate. On August 15,—two days after the receipt of Dearborn's letter,—Eustis wrote Dearborn that the President rejected the armistice. In a letter to Jefferson a few days later, Madison explained his reasons: "The acceptof it [the armistice] would have a bad effect on patriotic ardor"; and besides, it had been proposed by "local authorities" (not by the British government). To even so intimate a friend as Jefferson did he state all of his reasons? Did he fear that if he followed the example of John Adams, Henry Clay would play in 1812 the same part that Alexander Hamilton had played in 1800? History cannot say — probably Madison himself could not have stated all the motives which decided him to take the grave responsibility of rejecting the armistice and going on with the war. Perhaps the desire to be re-elected, perhaps a doubt as to the propriety of accepting such an offer at the hands of "local authorities," perhaps a more vivid appreciation of the outrage of impressment, perhaps his obstinacy, his inability to adapt himself readily to new situations — perhaps all of these contributed to cause him to reach a decision which made his presidency an epoch of the first importance in the history of the country.

Among the official reasons stated (August 21) in a despatch to Jonathan Russell, the American *chargé* at London, was the following: "As a primary object of the war is to obtain redress against the British practice of impressment, an agreement to suspend hostilities even before the British government is heard from on that subject might be construed as a relinquishment of that claim."* Russell had already (June 26) been authorized to say that the American government would agree to an armistice if the Orders in Council were repealed without a revival of blockades or violation of accepted rules, and if "there should be an immediate discharge of American seamen from British ships, and a stop to impressment from American ships," with the understanding that each nation should stipulate to exclude from its ships the seamen of the other. On September 30, Sir John Borlase Warren wrote Monroe a letter saying that he was commanded by the British government to propose an armistice. Monroe refused to agree to it unless England would consent to suspend the practice of impressment on American ships during the progress of the negotiation. The government decided to prosecute the war on the ground of impressment alone.

This was indeed ground enough. There were recorded in the Department of State more than six thousand cases of alleged impressment of American citizens.

* State Papers, III., 587.

How many were impressed of whom no information was received by the State Department it is impossible to say—probably fully as many as were reported.

Impressment.

Castlereagh himself admitted on the floor of the House of Commons that early in 1811 there were in the British navy thirty-five hundred men who claimed to be impressed Americans, and that of these probably as many as sixteen hundred were what they claimed to be — sixteen hundred men dragged from the decks of their vessels and compelled to fight the battles of England!

Madison is to be criticised, then, not because he laid such stress on impressment after war was declared, but because he did not do so from the start. Indeed, every American, almost without exception, who was then in public life is amenable to the same criticism. Enslave our American sailors, drag them from the decks of their vessels and compel them to fight on British ships, and we will remonstrate! Confiscate our property, capture our ships, and we will resort to hostile measures! That was in effect the language of this country until Madison was inveigled by Napoleon into a position in which he was compelled to lay emphasis on what was indeed our greatest grievance against England.

We know what England's excuse for impressing American seamen was: British naval officers were not authorized to impress Americans. They were only or-

dered to search American ships for British sailors — to whom England had a right, since a man who was born an Englishman could never become a citizen of another country — and sometimes they took Americans by mistake.

An American in 1812 certainly had some reason to regard this excuse of the British government as a thinly disguised pretext for doing what it pleased with American citizens, as it was doing what it pleased with American property. How else did it happen that, while the British government made a British officer sole judge of the question as to whether a man was a British sailor, it gave him no authority to discharge impressed Americans, no matter how overwhelming the evidence of their American citizenship might be? It said in substance to its naval officers: Go on board American vessels, and take every man who cannot prove that he is not a British sailor. But keep every man you have, no matter how convincing the evidence may be that he is an impressed American! Any British lieutenant could drag an American from the deck of his vessel, but only the Admiralty authorities at London could restore him to liberty. Complete power to enslave American citizens, but none to restore them to liberty! It was emphatically a case of Heads, I win; tails, you lose.

In the mean time, the conquest of Canada had not proved to be such an easy matter as the war Republicans had predicted. The first attempt, made by General

Hull, had resulted in the disgraceful surrender (August 16) of his entire force to the British at Detroit, with the loss of the whole of Michigan Territory.

Military failures.

The second attempt, at Queenstown (October 13), had resulted in almost as great a loss of troops. The American force was obliged to surrender because the militia, in full sight of the battle, stood on their constitutional rights, and refused to go to the assistance of their comrades across the Niagara River.

Success of the navy.

The little navy alone, from which the Republicans had expected nothing but defeat and disaster,—whose creation they had opposed as a dangerous menace to liberty, and whose support they had grudgingly given,—had prevented the United States from being overwhelmed with disgrace. Within nine months from the declaration of war, all the world knew that England had found her match on the ocean; that, on the element on which she had ruled hitherto almost without a rival, "a few fir-built frigates, with bits of striped bunting at their mastheads," had gone far to rob her of that prestige which had constituted a large part of her strength and her glory. The English press appreciated its significance, though they tried to explain it away. "The loss of a single ship," said the London "Times" in October, speaking of the "Guerriere," "when we consider how the other navies of the world have been treated, is a small matter. When viewed as a

part of the British navy, it is nothing. Yet it has cast a gloom over the city which is painful to see." "How is the government to blame?" asked the "Courier" in December. "It is true that the American carried more men and threw a heavier broadside. But have not English sailors been accustomed to contend against superior force and to conquer? The truth is, nobody ever supposed that one of our best frigates would not be a match for the American." When the "Java" struck in December, the language of the British press was a still more unequivocal admission of the significance of the war on the ocean. "This new defeat," said the "Pilot" in March, "calls for serious reflection—all the more serious when we put with it the fact that Lloyd's list shows five hundred British merchantmen taken by the Americans in seven months. Five hundred merchantmen and three frigates! Can this be true? Will the English people read this unmoved? Any man who had foretold such disasters this day last year would have been treated as a madman or a traitor. He would have been told that ere seven months had gone by the American flag would have been swept from the ocean, the American navy destroyed, and the maritime arsenals of the United States reduced to ashes. Yet not one of the American frigates has struck. They leave their ports when they choose, and return when it suits their convenience. They cross the Atlantic, they visit the West Indies, they come to the chops of the Channel, they parade along the coast of South America. Nothing

chases them; nothing intercepts them—nay, nothing engages them but to yield in triumph." *

In May, 1812, when the news reached Albany, New York, that the congressional caucus had nominated Madison for the presidency, the Republican members of the state legislature called a caucus of their own, which was attended by ninety-one of the ninety-five members, all but one of whom voted to nominate DeWitt Clinton. Clinton formally accepted the nomination, and entered upon a canvass which in utter unscrupulousness has never been surpassed by any presidential canvass in American history. To the peace party he was in favor of peace, to the war party in favor of war. A conference of more than sixty Federalists from eleven states (South Carolina and the states north of the Potomac) was held in New York in September. Despite the strenuous opposition of Rufus King, who believed that it would be better for the Federalists to fail with a candidate of their own than to succeed with a man like Clinton, the conference voted by a large majority to support the retail dealer in all varieties of political opinions."†

DeWitt Clinton nominated for the presidency by New York legislature.

National convention of Federalists vote to support him.

When Congress met in December, presidential electors had been chosen in only a part of the states. But it

* Quoted by McMaster, IV., 90.

† Life and Correspondence of Rufus King, V., 276, 281.

was already clear that Clinton would receive a large vote. When the returns were all in, Madison was found to have received only one hundred and twenty-eight electoral votes out of two hundred and twenty-eight. Four years before, when he had the unpopularity of the embargo to contend with, he had received one hundred and twenty-two out of a total of one hundred and seventy-six. If Clinton had received the eight votes of Vermont (which would have been given to him if the electors of that state had been chosen by popular vote instead of by the legislature) and the fifteen votes of North Carolina (where there was a strong peace party), he would have been elected.

Madison elected president.

The sectional character of the vote was especially significant. Every state north of Pennsylvania, except Vermont, cast its vote for Clinton; every state south of it, except Delaware and Maryland (which gave six votes to Madison and five to Clinton), cast a solid vote for Madison. Of Madison's one hundred and twenty-eight votes, twenty-one represented the slaves of the South.

The annual message of November 4 made no mention of the financial needs of the government. That subject was presented by Gallatin in the report which was sent to the House December 5. Gallatin informed Congress that, in order to meet the expenses already authorized by law, it would be necessary to borrow twenty millions of dollars. He told Madison that he thought a loan of that amount

Gallatin's report on the finances.

"altogether unattainable." Nevertheless the report did not repeat Gallatin's warnings of the danger of relying on loans to pay the interest on the debt. Although he knew that the government was rapidly drifting towards bankruptcy, that nothing could save it from that fate except peace or the imposition of taxes, he said not a single word on the subject—at least in any official document—until February 9, 1813, and then only in reply to a letter from Langdon Cheves, who had become chairman of the Committee of Ways and Means. He can hardly be blamed for his silence. Step by step since 1807 the country had wandered farther and farther into a labyrinth of difficulties through disregarding his advice. Despite his objections, an embargo had been laid without limit as to time; and when it had driven New England to the verge of disunion, he demonstrated that, unless the country meant to submit to the outrages of England and Napoleon, its repeal must be followed by a declaration of war against one or the other or both of them unless they ceased to violate our rights. But this demonstration, admitted by Congress itself to be complete, did not prevent that body from further frittering away the resources of the country by another futile measure of so-called resistance. When a year's experience had again proved the wisdom of his advice, Gallatin tried in vain to induce Congress to submit to the domination of England and Napoleon, since submit it would, in a form which would

Why Gallatin did not report his recommendation as to taxes.

at least have been profitable to the treasury. When the charter of the Bank expired, he unavailingly urged Congress not to run the risk of disordering the finances of the country, nor to deprive the government of a sure means of borrowing money by refusing to renew it. When it became clear that Congress meant to declare war against England, he affirmed that it was dangerous to rely on loans to pay the interest on loans. Deprived of his surplus by the embargo and non-intercourse measures, deprived of a sure resource for making loans by the destruction of the Bank, face to face with national bankruptcy because the financial quacks in Congress imagined that men would lend money when they saw no way of getting their interest except through the creation of other loans,—Gallatin certainly had some reason for withholding his advice except when it was sought.

Why taxes were not laid.

But financial quackery was not the only cause, perhaps not the chief one, of the refusal to lay taxes. As has been said, a number of the notable young men of the Twelfth Congress were thoroughly convinced of the futility of restrictive legislation. They wished to force Congress to repeal, at least in part, the Non-importation Law by refusing to lay internal taxes. On February 3, 1813, Langdon Cheves asked Gallatin what would be the effect upon the revenues of a partial repeal of that law. Gallatin told him that, in view of the increased expenses which Congress had authorized, he thought a proper provision

for the revenues would require both a repeal of the law, at least in part, and the imposition of internal taxes.

On February 20, when the House began to debate a bill for the partial repeal of the law, the Federalist Elisha Potter of Rhode Island surprised the Republicans by declaring that his constituents had four or five millions invested in manufactures, and that the passage of the bill would be fatal to their interests. When the vote was taken, nearly every Federalist in the House voted against the bill; the restrictive legislation was producing unexpected results: it was creating a powerful manufacturing interest in New England.

Federalists oppose the repeal of the Non-importation Law.

The session was occupied mainly with measures for carrying on the war and meeting its expenses. The enthusiasm created by the success of our little navy blotted out one more article in the Republican creed. Acts were passed providing for the building of four seventy-fours, six first-class frigates, six ships of war, and a light fleet upon the lakes. The Volunteer Acts of the preceding session were repealed, and in their stead a law was passed authorizing the President to raise twenty regiments of regular troops for twelve months.

To meet the necessary expenses, a law was passed authorizing the President to borrow sixteen millions on such terms as he could. Every one understood that it was a question whether so large a sum could be borrowed. A law was

Financial measures.

therefore passed providing for the issue of treasury notes to the amount of ten millions of dollars, to bear interest at the rate of five and two-fifths per cent and to be redeemed in one year. Only five millions were to be issued if money could be borrowed at less than five and two-fifths per cent. But if a larger interest had to be paid on the loan than on the treasury notes, five millions more were to be issued. In that event, however, only eleven millions were to be borrowed. The consideration of taxes was referred to the next Congress, which was to meet in extra session in May.

Grundy's bill excluding foreigners from American vessels.

On January 29, 1813, Felix Grundy, as chairman of the Committee on Foreign Relations, brought in a report in which he declared that impressment alone had prevented an armistice; that it must be provided for in any negotiation with England; that "the omission of it in a treaty of peace would not leave it on its former grounds — it would in effect be an absolute relinquishment." This report prefaced a bill which sought to induce England to abandon the practice of impressment by providing that, after the close of the war, no persons except American citizens, or persons of color born in the United States, should be employed in the public or private vessels of this country. The bill passed with unimportant amendments on March 3, 1813, and the same day the Twelfth Congress came to an end.

Meanwhile the failures of our military operations on land continued almost without interruption. The surrender of Hull at Detroit, with the loss of Michigan Territory and the surrender of the army at Queenstown, was followed by the failure of Smyth (in December, 1812), who succeeded Van Rensselaer as commander of the American troops on the Niagara. Harrison, who assumed command of the Tennessee, Kentucky, and Ohio militia for the purpose of regaining Detroit and Michigan, lost one thousand of his troops at the Raisin River (January 22, 1813) under the command of Winchester.

Consequently when, on March 8, Daschkoff, the Russian minister at Washington, wrote to Madison informing him that the Czar of Russia offered to mediate between the United States and England, Madison, without waiting to hear from the British government, accepted the offer, and James A. Bayard, a patriotic Federalist, and Albert Gallatin were appointed commissioners with John Quincy Adams, who was then minister to Russia.

Madison accepts Russia's offer of mediation.

In the mean time, Gallatin had succeeded in negotiating the loan of sixteen millions by borrowing ten millions at the rate of eighty-eight dollars for a hundred-dollar certificate of stock bearing interest at six per cent. All New England contributed less than five hundred thousand dollars to this loan.

Gallatin borrows sixteen millions.

On May 9, Gallatin and Bayard sailed for Europe. Their instructions bade them insist on requiring England to abandon the practice of impressment. "If this encroachment is not provided against, the United States have appealed to arms in vain. If your efforts to accomplish it should fail, all further negotiation will cease, and you will return home without delay."

Instructions of American commissioners.

On May 24, the Thirteenth Congress met in extra session. The new Congress showed a decided increase of anti-war members over the old. Nine Federalist senators and sixty-eight Federalist representatives took their seats in this Congress, while the Twelfth Congress had contained but six senators and thirty-six representatives who belonged to that party. Of the opponents of the war, only nine came from the Southern and Middle states—six from Virginia and three from North Carolina.

Strength of parties in the Thirteenth Congress.

The extra session had been called in order to provide taxes; and after the election of Clay as Speaker, the House took up its unpleasant task. "Defeated and disgraced everywhere," says Ingersoll, himself a strong war member from Pennsylvania, "Congress was to impose the burdens of taxes on a divided people, who had been taught by the leaders of the war party to look upon a tax-collector as a thief, if not to shoot him as a burglar." But it had no alternative, and the people knew it. Direct

Taxes levied.

taxes to the amount of three millions of dollars were laid; taxes on refined sugar, salt, carriages, auctions, together with a stamp act, were imposed. In spite of the fears of the members of the Twelfth Congress, the people paid them without a murmur. Madison was able to say a year later: "We have seen them [the people] everywhere paying these taxes, direct and indirect, with the greatest promptness and alacrity." These taxes were levied to meet ordinary expenses and the interest on the public debt. As the expenses of the government greatly exceeded the estimate which Gallatin had made in his annual report the preceding December, Congress was compelled to authorize a new loan of seven and a half millions. The act stipulated that no certificate of the stock should be sold at less than eighty-eight per cent. The loan was effected without difficulty by giving certificates of stock for one hundred dollars for every eighty-eight and a quarter dollars lent. This measure passed, Congress adjourned, August 2.

The elections of 1813 indicated a more favorable attitude of the people towards the Administration. New York, which had voted for Clinton, elected the Republican ticket. But there was no change for the better in New England. On June 4, 1813, Josiah Quincy, who had been elected to the state senate of Massachusetts, offered a resolution which declared that the act admitting Louisiana into the Union was a violation of the constitution, and in-

Action of the Massachusetts Senate.

structed the Massachusetts representatives in Congress to do all they could to secure its repeal. He offered another resolution, the precise language of which deserves to be quoted: "And to the end that all misrepresentations on this subject [our naval victories] may be obviated, *Resolved,* as the sense of the Senate of Massachusetts, that in a war like the present, waged without justifiable cause, and prosecuted in a manner which indicates that conquest and ambition are its real motives, it is not becoming a moral and religious people to express any approbation of military and naval exploits which are not immediately connected with the defence of our seacoast and soil." These resolutions, together with a strong remonstrance against the war addressed to Congress, passed the Federalist senate of Massachusetts by a large majority.

In August, the drooping spirits of the country were revived by the news of the brave defence of Fort Stephenson on Sandusky Bay, commanded by Major Croghan. Early in September, Commodore Perry gained the memorable victory on Lake Erie, and enabled Harrison to recover Detroit and Michigan Territory. On the Niagara and Lake Ontario, the feebleness and inefficiency of the American commanders bore their natural fruits. Dearborn, who in May had made a partial conquest of Upper Canada, was defeated in June, losing all that he had won. But for the courage and skill of Jacob Brown, a brigadier-

Military operations.

general of the New York militia, Sacketts Harbor would have been taken (May 28) by the British. Wilkinson, who succeeded Dearborn, showed so little capacity for anything but intrigue that he was fortunate in being able to take his army into winter quarters at the end of the campaign "with the disgrace of" having done nothing, "but without any material diminution of physical power."

In the mean time "a strict and vigorous" blockade of the coast — with the exception of that of New England — was effected. At the close of 1813, the price of imported articles had doubled, and exports had ceased except from Georgia and New England. **Blockade.**

The Thirteenth Congress met in regular session December 6, 1813. The message of the President dealt with the refusal of Great Britain to accept the mediation of Russia, and concluded with a statement which even the most vigorous optimism must have questioned: "The war has proved . . . that the Union of these states . . . is strengthened by every occasion that puts it to the test." **Madison's annual message.**

Three days later, Madison sent a message to Congress which furnished an interesting commentary on this assertion. On the ground that the soldiers and fleets with which the American forces were contending were supported by supplies which they received from the United States, Mad- **Madison recommends an embargo.**

ison recommended an "effectual embargo on exports. . . . To shorten as much as possible the duration of the war," he said, "it is indispensable that the enemy should feel all the pressure that can be given to it." In December, 1813, when every port on the continent of Europe outside of France was open to the commerce of England, did Madison suppose that an embargo would exert an appreciable influence on Great Britain? It is impossible to believe it. Exasperated by the notorious sympathy of New England with the enemy, Madison wished to punish it for its unpatriotic conduct. The message contains one sentence which directly suggests this motive. The restraints of the embargo, it said, "will affront those most who are most ready to sacrifice the interests of their country to their own."

There is no doubt that many men who were told that "the judgment of God" would await them if they lent money to carry on the war * did lend money to the enemy by buying British bills of exchange, and did give him aid and comfort by furnishing him with supplies. But was it wise to prevent all of the people of New

* In September, 1813, the President ordered a fast. A few days later, a Boston paper published the following paragraph: "Let no man who wishes to continue the war by active means, by vote or lending money, dare to prostrate himself at the altar on fast-day; for they are exactly as much partakers as the soldier who thrusts the bayonet, and the judgment of God will await them." — Olive Branch, 231.

England from buying and selling because a part of them were engaged in a treasonable traffic with the enemy?

Nevertheless Congress did not hesitate. A bill laying a rigorous embargo, forbidding all trade coastwise, not only between different states, but different ports of the same state, quickly passed both Houses and became a law December 17.

The result was as might have been expected. Town meetings began to be held all over Massachusetts, denouncing the embargo as more odious than the Boston Port Bill, and declaring that it was another evidence of a fixed purpose on the part of Madison to destroy the commerce of New England. The memorial adopted by the town of Newbury was particularly emphatic: "We remember the resistance of our forefathers to oppressions which dwindle into insignificance when compared with those which we are called on to endure. . . . We call on our state legislature to protect us in the enjoyment of those privileges to assert which our fathers died, and to defend which we profess ourselves ready to resist unto blood." The result.

On December 30, news arrived that Napoleon had suffered a disastrous defeat at Leipsic, and that Wellington was invading France. Accordingly, on March 31, Madison sent a message to Congress in which he said: "Taking into view the material interests which the United States and the Repeal of the restrictive system.

foreign nations in amity with her have in a liberal intercourse, and *the extensive changes favorable thereto which have recently taken place,*"—taking into view the fact that the ports of every country on the continent of Europe except those of France were open to the commerce of England, he recommended a repeal of the embargo and non-importation laws. Unfortunately for Madison, the message recommending the repeal of the embargo was at war with the message which recommended its imposition. He recommended the embargo because New England was furnishing supplies to Canada. He recommended its repeal because Napoleon's Continental System had broken down!

Speech of Daniel Webster on the restrictive system.

During the debate of the bill which provided for the repeal of the embargo and non-importation laws, a New Hampshire member, Daniel Webster, arose and declared that he was happy to "act a part in the funeral ceremonies of what has usually been called the restrictive system. . . . It was originally offered to the people of this country as a kind of political faith. It was to be believed, not examined. It was to be our political salvation, nobody knew exactly how, and every departure from it would lead to political ruin, nobody could tell exactly why." Webster criticised the abrupt changes in the policy of the government. "In the twinkling of an eye the whole system is dissolved. The Embargo Act, the Non-importation Act, and all the crowd of additions and supplements tumbled into one

common grave. . . . Sir, a government which cannot administer the affairs of a nation without producing so frequent and violent alterations in the ordinary occupations and pursuits of private life has, in my opinion, little claim to the regard of the community." The young orator took occasion to express his opinion of manufactures, the development of which had been so powerfully promoted by the restrictive system. "To double the duties on all articles imported for the purpose of encouraging domestic manufacture . . . is absurd. . . . I am not, generally speaking, the enemy of manufactures. But I am not for rearing them in hotbeds. I am not in haste to see Sheffields and Birminghams in America. . . . I am not anxious to accelerate the approach of the period when the great mass of American labor shall not find employment in the field; when the young men of the country shall be obliged to shut their eyes upon external nature, upon the heavens and the earth, and immerse themselves in close and unwholesome workshops; when they shall be obliged to shut their ears to the bleating of their own flocks upon their own hills, and to the voice of the lark which cheers them at the plough, that they may open them in dust and smoke and steam, to the perpetual whirl of spools and spindles, and the grating and rasping of saws."*

* Annals of Congress, 1813–1814, 1970, 1973.

The bill passed both Houses by large majorities, and on April 14 it became a law. That was the end of the restrictive system. It had inflicted great hardships upon the American people; it had deprived the government of a large amount of revenue; it had imbued a powerful party with the profound conviction that the policy of the government was dictated by Napoleon,—that a war as just as any ever waged in history was the result of an unholy alliance with the French emperor. Due to an enthusiastic devotion to liberty, to the belief that the wrongs of the country could be righted without war, it had finally involved the government in a policy which resulted in war not only with diminished resources, but with a divided people. At the time of the repeal of the restrictive system it was a grave question whether the result of that system was not to be the dissolution of the Union.

Restrictive laws repealed.

On January 27, 1814, Madison signed a bill "making further provision for filling the ranks of the regular army." The legal establishment consisted of 58,000 regular troops, but less than half that number were in actual service. The new act offered a bounty of one hundred and twenty-four dollars, in addition to the one hundred and twenty acres of land already provided, to every one who would enlist for five years or during the war. Other bills were passed providing for an increase of the legal establishment by five thousand men over that of the preceding year.

Congress provides for increasing the army.

Congress appropriated half a million dollars for building floating batteries propelled by steam.

With such provisions for raising troops, Congress turned its attention to the other necessity of war—money. The annual report of the acting Secretary of the Treasury showed that thirty millions in loans and treasury notes must be provided to meet the expenses already authorized for 1814. Accordingly Eppes, the chairman of the Committee of Ways and Means, proposed another loan of twenty-five millions and the issue of five millions of treasury notes.

Financial condition of the government.

Eppes made an elaborate argument to show that this loan could be effected without difficulty because the people were able to lend it. His opponents replied that it was not enough to show that the people were able to lend,—the ability of the government to borrow should be proved. Through the blockade of our coasts and the restrictive system a very large part of the specie of the country had accumulated in the banks of New England. By not including the ports of New England in the blockade, England had compelled the rest of the country to buy articles of foreign commerce of New England, while the restrictive system had compelled the people of the Middle and Southern states to buy large quantities of manufactures — which it had artificially developed — of the same section. From the 1st of June, 1811, until the 1st of June, 1814, the specie held by the banks of Massachu-

setts alone increased from $1,709,000 to $7,326.000.* The Federalist Hanson of Maryland pointed out the fact that this condition of things deprived the banks of the Middle and Southern States of the means of lending money to the government.†

Credit of the government at the mercy of New England.

And not only was it impossible for the government to borrow unless New England chose to lend,—the whole credit of the government was at the mercy of that section. "The accumulation of capital in the state of Massachusetts

* Sumner's History of American Currency, 67.

† Pearson dwelt upon the same fact with great force: "Blocked up as we are, by the enemy's squadron on our coast; corked up by our still more unmerciful embargo and non-importation laws; . . . the entire coasting trade destroyed, and even the pittance of intercourse from one port to another in the same state prohibited, the planters of the Southern and Middle states, finding no markets for their produce at home, are driven to the alternative of wagoning it hundreds of miles in search of a precarious market in the Northern and Eastern states, or permitting it to rot on their hands. Many of these articles, which are, or have become by habit, necessary for their comfort, are procured at the most extravagant prices from other sections of the Union. . . . The whole of our specie is fast travelling to the North and East; our bank paper is thrown back upon the institutions from which it was issued, and as the war expenditures are proportionately inconsiderable in the Southern and Middle states, where the loans have been principally obtained, the bills of these banks are daily returning, and their vaults drained of their specie, to be locked up in the Northern and Eastern states, never to return but with the return of peace and commerce."—Annals of Congress, 1813-1814, 1451. The speech was delivered February 16.

alone enables that state, by pressing New York, to reach the extreme southern end of the chain of banks. It cannot be concealed that a very general alarm is felt for the critical situation of the banks produced by the accumulation of capital in the North. . . . The whole circulating medium of the country is in danger. . . . A crisis has arrived in the finances of the government which, unless promptly and vigorously met by vigorous measures, will hurry on certain ruin."*

Evidently the thing to be proved was, not that the people could lend, but that the government could borrow. The Republicans themselves were painfully aware of this. "You have authorized a loan of twenty-five millions," said Felix Grundy, speaking in support of a resolution to establish a national bank; "where are you going to get the money?" In addition to the act providing for this loan, a law was passed authorizing the issue of ten millions more of treasury notes. On April 18, Congress adjourned.

* Annals of Congress, 1814, 1379, 1380.

CHAPTER XVI.

BANKRUPTCY OF THE GOVERNMENT.

ON April 3, 1814, Napoleon abdicated the throne of France. The peace in Europe left England free to employ her vast resources against this country, and it soon became evident that she meant to do it. On May 6, Gallatin and Bayard wrote Monroe from London that the sentiment in favor of the prosecution of the war against us was universal; that a curtailment of our northern boundary was suggested; and that a division of the Union was expected from the continuance of the war. The tone of the English press fully warranted these statements. On May 17, the London "Courier," a semi-official paper, said: "Let us interdict them [Americans] from the Newfoundland fisheries. As to Louisiana, that is the business of Spain in which we should support her. Let us insist upon their recantation of their new-fangled laws by which they would debauch our subjects from their allegiance, and let us demand their adoption of the law nations as recognized in Europe." A week later: rous war till America accedes to the following s: new boundary lines for Canada: . . . the not to be allowed to incorporate the Floridas,

English opinion in favor of the prosecution of the war.

and the cession of New Orleans to be required in order to insure us the privilege of navigating the Mississippi."

But it was not the armies which had beaten Napoleon that, in the autumn of 1814, put the country in the most dangerous position it had occupied since the beginning of the war. Thanks to John Armstrong, who had become Secretary of War January 8, 1813, the incompetent generals that had brought nothing but disgrace upon the American name during the first year of the war had been removed, and the victories of the American army under Major-General Jacob Brown at Chippewa and Lundy's Lane, and the repulse of the British at Fort Erie, had shown what American soldiers could accomplish under proper leadership. Macdonough's victory at Plattsburg had furnished additional evidence that England's naval prestige had received a serious blow. Above all, the American privateers were teaching the people of Great Britain, by a sort of object lessons that even England could not fail to understand, that preying upon defenceless commerce was a game that two could play at. The mistress of the sea, who had been exasperating the world with her paper blockades and piratical Orders in Council, found her own coasts blockaded in 1814, and that by a nation which had not a single frigate at sea. Captain Boyle, who commanded the "Chasseur," a privateer, amused himself by issuing a burlesque proclamation declaring the coast of Great

American privateers.

Britain and Ireland in a state of blockade, and by having it posted at Lloyd's coffee-house in London. The "Annual Register" for 1814 declared that it was "a most mortifying reflection" that, with a navy of a thousand ships, "it was not safe for a vessel to sail without convoy from one port of the English or the Irish Channel to another." At a largely attended meeting of the merchants, manufacturers, and ship-owners of the city of Glasgow, held September 7, 1814, it was unanimously resolved that the number of American privateers with which "our channels have been infested, the audacity with which they have approached our coasts, and the success with which their enterprise has been attended, have proved injurious to our commerce, humbling to our pride, and discreditable to the directors of the naval power of the British nation, whose flag, till of late, has waved over every sea and triumphed over every rival; that there is reason to believe that, in the short space of less than twenty-four months alone, eight hundred vessels have been captured by the power whose maritime strength we have hitherto impolitically held in contempt."*

But notwithstanding all this, since the close of those wretched days of the Confederacy the affairs of this country had never been so desperate as they

* Quoted from an English paper by Ingersoll, Vol. I., Sec. Ser., 39.

were in September, 1814. At that time it was evident that the management of the finances of the country for the preceding seven years had borne its natural fruit: the government was on the verge of bankruptcy.

Desperate condition of the finances.

The Secretary of the Treasury, G. W. Campbell, believing that a loan of a part of the twenty-five millions authorized by the law of March, 1814, was more likely to prove successful than if an attempt were made to obtain the whole sum at once, advertised (April 4) for a loan of ten millions, and solicited subscriptions to it. Nine and three-quarter millions were offered on condition that the government give a premium of thirteen dollars on the hundred, and also on the understanding that if any subsequent loans were made on better terms to the lenders, the lenders of the nine and three-quarter millions should receive the same terms. Hard as these conditions were, Campbell accepted the offer. On July 25, subscriptions were solicited for a loan of six millions. The whole amount offered was less than three millions, and a premium of twenty-five dollars on the hundred was demanded for it. The necessities of the government obliged it to accept even these terms.

In the latter part of August, the city of Washington, the defence of which had been entrusted by Madison, contrary to Armstrong's advice, to Brigadier-General William H. Winder, one of the most incompetent Ameri-

can generals of the war, was captured and its public buildings burned by the direct order of the British generals.* Thereupon followed an event which was inevitable in any case, sooner or later—the suspension of specie payments by all the banks in the country outside of New England. With the specie of the country flowing in a steady stream to the banks of Boston, the suspension of specie payments could not but be a question of time. If the New England Federalists had not in their disloyalty prevented their banks from lending money to their government, no such result would have happened. The money that flowed from the rest of the banks of the country into those of New England would have gone into the treasury of the government, and thence back into the banks from whence it started. But the New England Federalists preferred to invest their money in another way. Men who were too conscientious to lend money to their own government bought British government bills of exchange—lent money to the enemy of their country. On July 28, 1814, Christopher Gore, one of the Federalist senators from Massachusetts, wrote

Suspension of specie payments.

* The British General Robert Ross sent (August 30, 1814) to Earl Bathurst, British Secretary of State, a report of the capture of Washington and the burning of the Capitol, the White House, and other public buildings. So far from criticising Ross, Bathurst complimented him on his conduct and urged him to be even more severe if he should succeed in capturing Baltimore.

Rufus King: "The specie is constantly going in cartloads to Canada, between which country and the Eastern states, especially this, there is an uninterrupted trade in bills of the British government. From two banks in Boston there have departed one million eight hundred thousand dollars since the first of June."*

Shortly after the capture of Washington and the suspension of specie payments, the citizens of New York, greatly alarmed for the safety of the city, "organized themselves into military corps, and volunteered to attend at regular hours for the purpose of drilling. . . . Money was required. The banks would not loan their money without better security than the stock or treasury notes of the United States. It was, however, understood that if treasury notes were deposited, indorsed by Governor Tompkins, they would advance some four or five hundred thousand dollars, to be expended in erecting fortifications for the defence of the port of New York. Mr. Rufus King [a Federalist senator from New York], on being informed of this, called upon the governor and stated to him that the time had arrived when it was the duty of every man to put his all at the requisition of the government, and that he himself was ready to do this. Mr. Tompkins replied that he should be obliged to act on his own responsibility and should be ruined. 'Then,'

Patriotic conduct of Rufus King.

* Life and Correspondence of Rufus King.

said Mr. King, 'ruin yourself if it becomes necessary to save the country, and I pledge you my honor that I will support you in whatever you do.'"*

The country without a circulating medium of uniform value.

The suspension of specie payments left the country without any general circulation medium. The only kinds of money then left were the treasury notes of the government and the notes of the various state banks. But the notes of the state banks had very different values. The banks of Boston — which fixed the specie value of the notes of the state banks — accepted New York money at a discount of twenty per cent, Philadelphia at twenty-four, Baltimore at thirty. In other words, money paid to the government (in the form of loans and taxes) in the notes of the banks of Baltimore could not be used to pay its debts in New England except at a loss of thirty per cent. If treasury notes were used, the case was not much better, since the Boston banks refused to accept them save at a discount of twenty-five per cent.†

Embarrassment of the government.

To be unable to borrow money except upon ruinous terms was by no means the worst feature of the situation of the government. The bank-notes of Virginia could be used to pay debts in Virginia, those of New York to pay debts in New York, but both were alike unavailable any-

* Hammond Political History of New York, I., 377, 378.

† Niles, VII., Supplement, 176.

where else. A private individual could have met the difficulty by paying the necessary exchange. If he had debts in Boston and had only the money of Baltimore banks, he could have paid them by giving one hundred dollars of his money for every seventy dollars of his debt. Desperate as such a situation was for private individuals, it did not make commercial transactions between different states impossible. But the government had no such resource, because Congress had given it no authority to pay the necessary exchange. It might be solvent in Baltimore and bankrupt in Philadelphia. The only money it could use was treasury notes, and these derived their sole value from the fact that they bore interest and were redeemable. But after the suspension of specie payments in what could the government redeem them?

This was the situation when Congress met (September 19) at the call of the President. The report of the Secretary of the Treasury showed that nearly twenty million dollars had been paid out from January to July, 1814, and that some twenty-seven millions would be needed to meet the expenses of the government already authorized by law during the remainder of the year.

Report of the Secretary of the Treasury.

On July 1, the cash in the treasury amounted to nearly five millions. From the various sources of revenue it was estimated that nearly five millions would be received before January, 1815, and from loans already

made about four and a half millions more, making in all about fourteen millions of dollars — a little more than half the sum immediately necessary. As the expenses for 1815, if the war continued, would be at least as great as they had been in 1814, Congress must make provision for thirty-nine millions for 1815, as it was estimated that the various branches of the revenue would produce eight millions. Fifty-two millions, therefore, must be raised to meet the expenses of the government from July, 1814, to January, 1816.

How was it to be done? Campbell told Congress that neither loans nor treasury notes could be relied upon. The plan of finance adopted at the beginning of the war — of relying on loans to carry on the war, and raising by taxes only enough revenue to pay the expenses of the peace establishment and the interest on the debt — had completely broken down; the government could not borrow the money to carry on the war. Nor could more than four millions of treasury notes on the present basis be added to the circulation. The Secretary made no recommendations. He said that the difficulties of the government showed the necessity of adopting "effective measures" for providing for the wants of the government, but what those measures were he did not say. And he was equally silent as to recommendations in relation to the currency. As if to admit his inability to deal with the situation, he resigned.

When Gallatin left the Treasury, Madison had selected as his successor Alexander James Dallas, an eminent Philadelphia lawyer. But on conferring with the senators from Pennsylvania, Leib and Lacock, the President learned that they would oppose his nomination. Dallas had the aristocratic manner of the Federalists, and this helped to make him unpopular with his party.* In view of Campbell's report, however, the senators just named felt that all personal considerations should be put aside. "Tell Dr. Madison," said Senator Lacock to the President's private secretary, "that we are now willing to submit to his Philadelphia lawyer for the head of the treasury.

Dallas becomes Secretary of the Treasury.

* "A mere Philadelphia lawyer, whose powdered hair, old-fashioned but ostentatious dress, and graceful manners were far from merits in many observing eyes." — Ingersoll's History of the War of 1812, II., 254. The manner of wearing the hair was as a rule a dividing line between the Federalist and the Republican leaders. The leading Federalists wore powder and long queues, while the Democrats wore short hair or small queues tied up carelessly with a ribbon. This made all the barbers of Washington Federalists. "Dear me!" one of them is reported to have said the day Madison's nomination was announced, "surely this country is doomed to disgrace and shame. What presidents we might have, sir! Just look at Daggett of Connecticut and Stockton of New Jersey! What queues they have got — as big as your wrist, and powdered every day, like real gentlemen as they are. Such men would confer dignity upon the chief magistracy; but this little Jim Madison, with a queue no bigger than a pipe-stem! It is enough to make a man forswear his country!" — Goodrich's Recollections of a Lifetime, I., 131.

The public patient is so very weak that he must swallow anything the doctor prescribes, however nauseous the bolus."*

On October 5, Dallas was nominated as Secretary of the Treasury, and the next day the Senate confirmed him.

Immediate financial needs of the government.

So far as the immediate financial needs of the country were concerned,—overlooking every other consideration,—the duty of Congress was plain: it must restore the credit of the government; it must enable the treasury to borrow money; and it must provide it with a kind of money that could be used in all the states. If it failed to do these things, the armies of the United States must be disbanded, and peace made with England on her own terms, or the war must be carried on by the individual states, and the general government, which was instituted for the common defence, be proved a failure. In the temper of New England, that would have meant a dissolution of the Union. The only way out of the dilemma lay in the negotiations then pending at Ghent. If our envoys at Ghent could make an honorable peace before the desperateness of our situation terminated in disaster, the failure of Congress to effect the necessary financial legislation would not be irremediable.

* Ingersoll's History of the War of 1812, Vol. II., 253.

But how were the immediate needs to be provided for? One thing was certain: until the war was over there could be no kind of money in general circulation except some form of paper currency. And this could only be one or the other of three sorts: treasury notes, which the people could take or not as they saw fit; treasury notes made a legal tender; or the irredeemable paper of a national bank.

How were they to be provided for?

The depreciation of the limited amount of treasury notes already in circulation was proof that the wants of the government could not be supplied by the issue of treasury notes unless they were made a legal tender. But to make them a legal tender would have been, from the point of view of the statesmen of the time, an act of the grossest usurpation, equivalent to compelling the people to lend to the government the precise amount of the notes put in circulation. Such compulsion would have greatly increased the opposition to the war and to the government in New England, and it would have led to a still further depreciation of money and derangement of the currency. The latter result would have followed with equal certainty from the issue of the irredeemable paper of a national bank. The notes of a national bank would have added one more element to the present confused condition of the currency: instead of bringing order

out of chaos, it would only have made the confusion greater.

On October 14, Eppes, chairman of the Committee of Ways and Means, presented his scheme for dealing with the financial difficulties of the government. He proposed to supply the wants of the treasury and give the country a circulating medium by a copious issue of treasury notes which were not to be made payable on demand, but might at any time be exchanged for eight per cent bonds, and which were to be received in all payments for public lands and taxes.

Eppes' scheme.

Three days later, in a letter to Eppes, Dallas unfolded his scheme. He said that though treasury notes might answer the purposes of a circulating medium, they could not restore the credit of the country, since they were exposed to every breath of popular prejudice and alarm; that the establishment of a national bank, operating upon credit combined with capital, was "the only efficient remedy for the discredited condition of our circulating medium." He proposed a bank with a capital of fifty millions of dollars, which was at once to lend the government thirty millions. He met the difficulty of a lack of coin by proposing that forty-four millions should be subscribed in government bonds and treasury notes and six millions in coin. Such an institution would meet both of the pressing financial demands of the country: it would give the

Dallas' plan.

government money, and provide the country with a circulating medium. "But whether," he said, "the issues of a paper currency proceed from the national treasury or from a national bank, the acceptance of the paper in a course of payments and receipts must be for ever optional with the citizens. The extremity of that day cannot be anticipated when any honest and enlightened statesman will again venture upon the desperate expedient of a tender law."

On October 24, the House, in committee of the whole, voted without debate that it was expedient to establish a national bank. On November 7, Jonathan Fisk reported a bill to establish a bank along the lines of Dallas' recommendation. It was to have a capital of fifty millions, six millions in coin and forty-four millions in government bonds and treasury notes; it was to be obliged to lend to the government thirty millions at an interest of six per cent; and during the war and for five years afterwards it was to be empowered by the President to suspend specie payments.

Bill to establish a bank reported.

The objections to such a bank were evident: the needs of the government, not the bank's own interests, were to be an essential factor in determining the amount of its loans. How could a bank restore the credit of the country which delegated the management of its affairs in an all-important particular to an outside power? And how could the

Objections to the proposed bank.

notes of an institution which were not redeemable in coin serve as a circulating medium, since they were certain to depreciate? The credit of such a bank would really be the credit of the government; the government, in paying it for the use of its notes, would really be paying for the use of its own credit. Such a bank would be a clumsy and expensive piece of machinery for doing indirectly what the government might just as well do simply and directly.

On November 16, Calhoun submitted the plan of a bank which was designed to obviate these difficulties. His bank was to be independent of government control, and was not to have the right to suspend specie payments. Its capital was to consist of fifty millions,—five millions in specie and the remainder in treasury notes "hereafter to be issued." * As the forty-five millions of treasury notes which capitalists must buy in order to subscribe to the bank would be equivalent to a loan, to that amount, to the government, this plan would supply the wants of the government — if capitalists could be found to buy the notes. The demand for treasury notes so created was expected to restore the credit of the government, and the notes of the bank to supply a "permanent and safe circulating medium."

Calhoun submits the plan of another bank.

* The bill provided that the forty-five millions might be in treasury notes or specie.

But what possible advantage could accrue to the government from a bank which was not to have the right to suspend specie payments? Ingham of Pennsylvania well said that "in the existing condition of the specie medium of the country it would seem to be a sort of frantic enthusiasm" not to give the proposed bank that right. To withhold it would be to require the bank to exist under impossible conditions.

Objections to Calhoun's bank.

Besides, Calhoun's bank could not be organized at all unless the moneyed men of the country purchased forty-four millions of treasury notes at par. Would they do it? Would the Federalists, whose disloyal opposition to the war had forced the suspension of specie payments upon the banks, now come to the aid of the government and buy its treasury notes? Would Republican capitalists, who had already become the creditors of the government for such large sums, help to create a bank which would still further depreciate the value of their bonds? For it must be remembered that while Dallas' scheme gave to the owners of government bonds the opportunity to exchange them for the stock of the bank, Calhoun's involved the creation of a new set of creditors. In order that the old creditors might use their government bonds in buying the stock of the bank, they must sell them for what they would bring,—thereby depreciating their value still more. Under such circumstances, there was a strong probability that if Calhoun's

were authorized by Congress, it would remain a bank on paper. And this probability was rendered all the greater by the fact that the air was full of rumors that the Hartford convention, to meet December 15,—hereafter to be described,—intended to effect the dissolution of the Union. But if the government issued forty-four millions of treasury notes, made them convertible into stock of a bank, and capitalists failed to buy them, the effect would be either an entire failure to get them into circulation, or only at a ruinous rate of depreciation. In either case the effect upon public credit would be disastrous.

The House, in committee of the whole, adopted Calhoun's plan by a large majority. As objections to it developed, the bill was recommended to a special committee of which William Lowndes was chairman. The committee instructed Lowndes to ask Dallas' opinion as to the effect upon public credit of such an issue of treasury notes as Calhoun's bank called for, and particularly its effect upon the prospects of a loan in 1815.

Dallas' opinion of Calhoun's bank.

Dallas' reply was explicit. He told the committee that he thought such an issue of treasury notes would have an injurious effect upon the credit of the government; that a large amount of treasury notes had already been dishonored; that the interest on the public debt had not been punctually paid; and that he did not believe that forty-four millions of treasury notes could be put

into circulation. The next day, Lowndes reported that the committee could not agree. Whereupon the Federalist Hanson made a significant speech. "Disgraceful, humiliating as the fact was," he said, "it ought not to be concealed from the nation that the Department of State was so bare of money as to be unable to pay even its stationery bill. . . . When things come to the worst, the states can and will defend themselves, I have no doubt; but my object is to defend the country under the constitution, and to prevent a dissolution of the Union, which is inevitable if the means are not provided to enable the general government to defend the states." *

The House rejected Calhoun's bill by a vote of one hundred and four to forty-nine. On December 2, a bill providing for a bank was introduced into the Senate; it passed (December 9) by a vote of seventeen to fourteen, four of the Republicans voting with the Federalists against it.

Bank bill passed by the Senate.

This bank was substantially identical with the one recommended by Dallas. Its capital was to consist of fifty millions; it was to have the right to suspend specie payments; and it was to be compelled to lend the government thirty millions.

On December 29, during the course of the debate in the House, Daniel Webster offered a number of resolutions to show what sort of a bank the Federalists were

* Annals of Congress, 1814, 1815, 659.

willing to support. Among other things, his resolutions proposed to reduce the capital to tweny-five millions, and to strike out the provisions which permitted the bank to suspend specie payments, and made it obligatory on the bank to make loans to the government. On January 2, he stated his objections to the bill. He told the House that it was folly to look to a bank for supplying the ways and means of carrying on the war. "Banks are not revenue. They cannot supply its place. . . . They are useful to the state in their proper place and sphere; but they are not the sources of national income. . . . Whoever shall attempt to restore the fallen credit of the country by the creation of new banks, merely that they may create new paper, and that government may have a chance of borrowing where it has not borrowed before, will find himself miserably deceived." After describing the bank which the bill proposed to create, he asked: "What sort of an institution, sir, is this? It looks less like a bank than like a department of government. It will be properly the paper-money department. Its capital is government debts; the amount of issues will depend on government necessities; government in effect absolves itself from its own debts to the bank, and, by way of compensation, absolves the bank from its own contracts with others. This is indeed a wonderful scheme of finance. The government is to grow rich because it is to borrow without the obligation of repaying, and is to

Webster's objections to it.

borrow of a bank which issues paper without liability to redeem it. . . . A bank which does not pay is to guarantee the engagements of a government which does not pay. . . . The empty vaults of the treasury are to be filled with the equally empty vaults of the bank, and the ingenious invention of a partnership between insolvents is to restore and re-establish the credit of both." *

The same day the bill came to a vote, and was defeated by the casting vote of the Speaker, who denounced it as "a dangerous, unexampled, and, he might almost say, desperate resort." When the bill was defeated, Calhoun, appalled at the alarming situation of the government, went to Webster and, with tears running down his face, besought the aid of the New Hampshire member in framing a bill which would be acceptable to the House. Webster agreed to give it. The next day, the House voted to reconsider the bill, and then recommitted it to a select committee. On January 6, the committee reported the bill with amendments which reduced the capital of the bank to thirty millions, and struck out the provisions which required it to make loans to the government and authorized it to suspend specie payment. In that form the bill finally passed both Houses, nearly all the Federalists voting in the affirmative. Ten days later, Madison returned

The bank bill defeated by the casting vote of the Speaker.

* Annals of Congress, 1814–1815, 1015, 1016.

the bill with his veto. A bank, he said, which must redeem its notes with specie could not furnish a general circulating medium while the war lasted, nor could such a bank be useful to the government by affording more durable loans.

The failure of Congress to create a bank which would be compelled to make loans to the government seemed to close the only avenue of escape from ruin. Acting on the recommendation of Dallas, Congress had passed heavy tax bills by means of which the government hoped to raise twenty millions. But forty millions more were still to be provided, with no resources for doing it except treasury notes,—which were selling in small sums, as they could be used in paying taxes, at seventy-five cents on the dollar,—and loans, when government bonds were quoted in Boston at a discount of forty per cent. Dallas closed a detailed statement (January 17) of the financial condition of the government with a paragraph in which he said: "When I perceive that more than forty millions of dollars must be raised for the service of the year 1815 by an appeal to public credit through the medium of treasury notes and loans, I am not without sensations of extreme solicitude. The unpromising state of the public credit and the obstructing state of the circulating medium are sufficiently known. A liberal imposition of taxes during the present session ought to raise the public credit, were it not for the

Dallas' appeal to Congress.

counteracting causes; but it can have no effect in restoring a national circulating medium."*

Effect of Dallas' letter on Congress.

The effect of this letter upon the House of Representatives was graphically described by George Ticknor, who happened to be in the House when Eppes read it. "The last remarkable event in the history of this remarkable Congress is Dallas' report. You can imagine nothing like the dismay with which it has filled the Democratic party. All his former communications were but emollients and palliatives compared with this final disclosure of the bankruptcy of the nation. Mr. Eppes . . . read it in his place yesterday, and when he had finished he threw it upon the table with expressive violence, and turning round to Mr. Gaston" (a Federalist from North Carolina), "asked him with a bitter levity, between jest and earnest, 'Well, sir! will your party take the government if we will give it up to them?' 'No, sir,' said Gaston. 'No, sir! Not unless you will give it to us as we gave it to you.' The truth is, this report is considered a plain acknowledgment that the government can go forward no longer; and though it is utterly impossible to foresee what will be the next measure, it is easy to believe that it will be violent and desperate."†

* Annals of Congress, 1814, 1815, 1094.

† Life of George Ticknor, 31.

An attempt to pass the bank bill over the veto having failed, Senator Barbour introduced another bill which proposed to create such a bank as the Administration wanted. It passed the Senate, but before it came to a vote in the House, news of the treaty of peace was received (February 13) and it was indefinitely postponed.

CHAPTER XVII.

THE HARTFORD CONVENTION.

WHILE Dallas was endeavoring to induce Congress to make provision for the financial necessities of the government, Monroe, who had succeeded in driving Armstrong from the cabinet and getting himself appointed* as Secretary of War, was exerting himself to induce it to make provision for raising troops to carry on the war. He wrote to a committee of the Senate stating the condition and needs of the military service. He said that while the legal establishment consisted of sixty-two thousand men, the army consisted, on the first of October, of but thirty-four thousand. He urged that the additional twenty-eight thousand men be raised, and that another army of forty thousand—making in all a regular force of one hundred thousand men—be created for strictly defensive purposes. Well aware that such a force could not be raised by ordinary methods, he recommended that resort be had to the draft,—of which he had strongly disapproved when Armstrong had suggested it in the preceding December.†

Monroe's plan to raise troops.

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* Henry Adams, VIII., 161. Gilman's Monroe, 111,
† Gilman's Monroe, 117.

On October 10, a few days before Monroe made his recommendation, Congress was informed of the progress of the negotiations at Ghent. To say nothing of other demands, the British government required the United States to stipulate neither to maintain a naval force upon the Lakes (from Lake Ontario to Lake Superior inclusive) nor keep land fortifications upon their shores; and also, as a *sine qua non,* that nearly the whole of the territory now constituting the states of Illinois, Wisconsin, and Michigan, with one third of Ohio and two thirds of Indiana, should be ceded to the Indians,—to serve as a permanent barrier between Canada and the United States, each government to pledge itself not to acquire any part of the territory, although the Indians were to have the right to dispose of it to a third party. The Americans were also told that if they refused to agree to these terms, Great Britain would not feel bound to abide by them, but might regulate and vary her demands according to the state of the war.*

Demands of the British commissioners.

Though the conditions thus laid down did not "rouse any resentment" in Timothy Pickering; though Caleb Strong and his friends in Boston could discover nothing "in the claims of the British commissioners" that could justify Federalists in pledging themselves to a vigorous prosecution of the war; though John Lowell

* State Papers, III., 709.

thought "the terms" of England "liberal,"* and the Boston "Centinel," the leading Federalist paper of Massachusetts, took the same ground,—at a caucus of the Federalists held in October shortly after the arrival of the news of the British demands, action was taken which on the face of it indicated that the Federalists as a party would beyond doubt imitate the example of Bayard and forget partisanship in a spirit of patriotism.

Caucus of the Federalists.

After a free interchange of opinion, a committee was appointed, consisting of Rufus King, Christopher Gore, and David Daggett of Connecticut, from the Senate, and Richard Stockton of New Jersey, Timothy Pickering and Thomas Oakley of New York, and Joseph Pearson of North Carolina, from the House, to formulate the course which the Federalists ought to pursue. This committee reported that although the declaration of war was unnecessary and inexpedient, the manner in which "it has been prosecuted by the enemy, and the avowed purpose of waste and destruction that he proclaims, have so changed" its character that it "has become the duty of all to unite in the adoption of vigorous measures. . . . Congress should therefore grant supplies of both money and men, provided the same be done pursuant to the provisions of the constitution. . . . In respect of the army no scheme of conscription can be approved. . . . It is only in the general principle

* New England Federalism, *passim*.

that supplies ought to be granted for the defence of the essential rights of the nation that such unanimity is hoped for."*

Timothy Pickering dissented from the report. He thought that the Federalists should assent to the system of taxation which had been recommended only on condition that the Administration should be changed, so "that Federalists should control the public measures and apply the funds to support them."

In the debates on the various bank bills which were introduced there was no evidence that the Federalists were not in good faith trying to carry out the spirit of the report. If they opposed the bank recommended by the Administration, so also did some of the ablest and most enthusiastic war men. And the supporters of the Administration bank could not in candor claim more than that it would afford immediate relief to the treasury at great risk to the future interests of the country, while even that claim was, to say the least, open to honest and intelligent doubt. When the heavy tax bills were debated, although some of the Federalists avowed their opposition to them on the ground that they wished to compel the Administration to stop the war, nearly half of them voted for the taxes.

Conduct of the Federalists.

* Life and Correspondence of Rufus King, V., 422, 423. Cf. New England Federalism, 401.

But in the discussion of the various measures proposed for increasing the army they showed that their prejudices and hatred of the Administration were too strong for their patriotism. One large British army was preparing to attack Sackett's Harbor, and another New Orleans, while our army was composed of a mere handful of men. But when Monroe recommended that Congress pass a law compelling American citizens to serve in the regular army against our aggressive enemy, when a bill was introduced authorizing the enlistment of minors and apprentices without the consent of their guardians, — when any measure was introduced which promised an effective increase of our army, the Federalist cry was "French influence," "Weakness and wickedness of the Administration," "Constitution," "Civil Liberty,"—as though the causes of the desperate situation of the government had any bearing on the wisdom of the measures proposed to extricate it; as though the constitution could have any value if the Union which made it possible was destroyed; as though the experience of the Confederation had not shown that civil liberty without effective union was an empty name. In truth there are crises when the observance of the constitution is a matter of secondary importance, when the one question which ought to engage the attention of all patriotic men is how to defend and preserve the country and the Union without which the constitution becomes a mere piece of parchment. That

the Federalists did not see that we were face to face with that question in the fall and winter of 1814 can only be explained by their lack of patriotism. Too many of them, alas, were looking to the "star in the East," as Gouverneur Morris called the Hartford convention, for relief from pressing dangers and oppressions,—and these dangers and oppressions proceeded not, in their opinion, from the enemy, but from the tyrannies and usurpations of their own government. Nothing in the public life of James Monroe is nobler than the completeness with which he turned his back on the strict-construction theories of which at all other times he was an upholder, and the earnestness with which he advocated the exercise of those powers which seemed to him essential to the safety and honor of the nation. And nothing in the public lives of many of the otherwise honorable men of influence in the Federalist party is more deserving of censure than their Shylock method of interpreting the constitution at the time when the very existence of the Union seemed at stake.

On December 14, the day before the meeting of the Hartford convention, Artemas Ward of Massachusetts made a frank statement of the programme of the extreme Federalists: "That the treasury is empty, I admit; that the ranks of the regular army are thin, I believe to be true; and that our country must be defended in all events, I

The programme of the extreme Federalists.

not only admit, but affirm. But, sir, if all of the parts of the United States are defended, of course the whole will be defended. If every state in the Union, with such aid as she can obtain from her neighbors, defends herself, our whole country will be defended." And then he unfolded another step in the Federalist programme: "Shall we pass all the supply bills beneath which your table groans, draw all of the funds of the states from them, and then leave them thus exhausted at the mercy of the enemy? This is . . . against the duty which we owe to the states. Money is as necessary to their defence as to that of the United States. Under these impressions I have uniformly voted against the granting of taxes to the government of the United States, and shall continue to do so until I have probable grounds for believing that they will be judiciously applied in the defence of the country. The people of the several states ought not to be compelled to pay for protection unless it is afforded them by the United States. Shall Massachusetts be compelled to contribute to the common stock from which she is allowed to draw nothing? . . . Surely not."* That was their programme: to compel the government to permit the states to carry on the war in order to bring about either the overthrow of the Administration or the dissolution of the Union.

* Annals of Congress, 1814–1815, 907, 908.

In the winter of 1814, it looked as if they would succeed. Massachusetts, New York, Maryland, Virginia, and South Carolina voted to raise state armies. Outside of New England, this state action was prompted by motives of patriotism. But in Massachusetts it was undertaken in a spirit of disloyalty to the Union.

State armies.

On January 27, 1815, Congress passed a law which authorized the President to receive into the service of the United States a certain proportion of state troops: the opposition of the Federalists made it impossible to do anything else.

While the Federalists in Washington were defeating every effort of the government to obtain the means to carry on the war, the Federalists in New England were concocting measures that tended to dissolve the Union. On September 6, 1814, Governor Strong of Massachusetts at last called out the militia of the state. But he placed over them a major-general who was an officer of the state, an action which left no doubt of the fact that Massachusetts proposed to take her defence into her own hands. The significance of his action was not misunderstood. Four days later, the Boston "Centinel" declared that the Union was practically dissolved and that the people must arise in their majesty and protect themselves. On September 7, Strong wrote to Monroe, Secretary of War, inquiring whether the government of

Governor Strong calls out the Massachusetts militia.

the United States would bear the expenses of the state militia. Monroe replied that it would not unless they were put under the command of an officer of the United States.

The legislature of Massachusetts met in special session October 5 at the call of the governor. His message to that body narrated the steps he had taken, and the refusal of the general government to bear the expenses of the militia. Strong's message.

He told the legislature that the situation of the state was "peculiarly dangerous and perplexing"; that the people of the state had resigned to the general government "the revenues of the state" with the expectation that the government would provide for their defence; but that since they had been disappointed, since they had not been defended by the nation, they ought to "unite in such measures" for their safety "as the times demand and the principles of justice and the law of self-preservation will justify."* Evidently the Federalists were strict constructionists or broad constructionists as suited their purposes. When the Administration urged the enactment of measures which would give it an effective army, they were strict constructionists; when they found it convenient to violate the constitution, they appealed to the principles of justice and the law of self-preservation.

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*Niles, VII., 114.

The committee to whom this message was referred understood what was meant by measures which were to be justified, not by the laws and constitution of the United States, but by the law of self-preservation. Through their chairman, Harrison Gray Otis, they reported that it would be impossible for the people of Massachusetts to pay the taxes required by the United States when they were "compelled to provide for the indispensable duty of self-defence. . . . There remain to them, therefore, no alternatives but submission to the enemy or the control of their own resources to repel his aggressions." But they could not control their own resources without a complete disregard of the constitution. Accordingly, "It is with great concern that your committee are obliged to declare their conviction that the constitution of the United States has failed to secure to this commonwealth . . . and to the eastern section of this Union those equal rights and benefits for which it was formed." As the prescribed mode of amending the constitution was too slow in its action to give relief in time, they recommended that the people, justified by "the supreme law of safety," take the matter into their own hands. As, however, a proposition from a single state for a convention to amend the constitution would probably be unsuccessful, the committee recommended that, in the first instance, a "conference should be initiated between those states the affinity of whose interests is closest." The

New England convention recommended.

report closed with seven resolutions, one of which recommended the appointment of delegates "to meet and confer with delegates from the states of New England, or any of them, upon the subject of their public grievances and concerns."*

On October 13, both branches of the Massachusetts legislature voted by large majorities to send delegates to a New England convention, and a few days later twelve delegates were chosen. A minority of each body presented protests against the report of the Otis committee. "The reasoning of the report," said one of these protests, "is supported by the alarming assumption that the constitution has failed in its objects, and that the people are absolved from their allegiance and are at liberty to adopt another." This protest added a sentence which puts the character of the purposes of the originators of the Hartford convention in its true light: "In debate it has been reiterated that the constitution is no longer to be respected, and that revolution is not to be deprecated."†

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* Niles, VII., 149.

† In a letter to Gouverneur Morris, October 21, 1814, Timothy Pickering said: "'Union' is the talisman of the dominant party, and many Federalists, enchanted by the magic sound, are alarmed at every appearance of opposition to the measures of the faction, lest it should endanger the 'Union.' I have never entertained such fears. On the contrary, on adverting to the ruinous system of our government for many years past, I have said, 'Let the ship run aground. The shock will throw the

On December 15, 1814, the convention met in Hartford, Connecticut. In addition to the delegates from Massachusetts, there were seven from Connecticut and four from Rhode Island,—which represented these states as states. Besides these, ten were appointed by local conventions in New Hampshire, and one by a local convention in Vermont.

Character of the Hartford convention.

The most significant parts of the work of this famous convention may be stated under three heads: first, the convention considered the question as to whether the time had not come for a dissolution of the Union; secondly, it recommended that amendments should be proposed to the constitution—which every intelligent man in the country knew could not be adopted without revolution—and at the same time urged the states interested in securing them to persist in their efforts to obtain them until they were successful; thirdly, it recommended, in certain contingencies, nullification by the state legislatures of laws passed by the Congress of the United States. The convention transacted other business. But that which constituted the main purpose of its meeting, that on account

present pilots overboard, and then competent navigators will get her once more afloat and conduct her safely into port.' I have even gone so far as to say that a separation of the northern section would be advantageous, because it would be temporary, and because in the end the just rights of the states would be recovered and secured." — New England Federalism, 400.

of which an injunction of secrecy was laid upon its members as to all its debates and proceedings, is included under these three heads.

The convention adjourned January 5, 1815. Immediately after its adjournment, a report framed by one of its committees, and setting forth the reasons which had influenced their action, was published. The report was approved by the legislatures of Massachusetts and Connecticut.

The language of the report excludes the possibility of doubt as to the position taken by the convention on the first of the propositions above mentioned: "It is a truth not to be concealed, that a sentiment prevails to no inconsiderable extent that administrations have given such constructions to that instrument [the constitution], and practised so many abuses under color of its authority, that the time for a change is at hand. . . . *This opinion may ultimately prove to be correct.*" But "the evidence on which it rests is not yet conclusive." Why not? Because, first, "the constitution of the United States" enabled the country to prosper under "a wise and virtuous administration"; secondly, Jefferson and Madison had been able to pervert public opinion "in respect to our foreign relations" by means of "the fierce passions which have convulsed the nations of Europe" and were now

The dissolution of the Union considered.

agitating the bosoms of our citizens; thirdly, there were indications that the South was beginning to realize the errors of the restrictive system and of the war; "finally, if the Union be destined to dissolution by reason of the multiplied abuses of bad administration, it should, if possible, be the work of peaceable times and deliberate consent. Some new forms of confederacy should be substituted among those states which shall intend to maintain a federal relation to each other. Events may prove that the causes of our calamities are deep and permanent. Whenever it shall appear that these causes are radical and permanent, a separation, by equitable arrangement, will be preferable to an alliance by constraint among nominal friends but real enemies. . . . *But a severance of the Union by one or more states, against the will of the rest, and especially in a time of war, can be justified only by absolute necessity.*" These the Hartford convention regarded as the "principal objections against precipitate measures tending to divide the states." It ignored the fact that disunion would mean the failure of republican government, and it failed to note this fact because its members never had heartily believed in republican government. George Cabot, its president, who represented its spirit perhaps as accurately as any other member, wrote in 1812: "We are destined in this country, as in all the free states which have gone before us, to sacrifice the essence of liberty

to the spirit of democracy."* And he never changed his opinion. Naturally, men who held such opinions would not think it worth while to mention the fact that disunion would mean the failure of republican government.

Having decided that the proof was "not yet" conclusive that the time for disunion had come, the report proceeded to discuss the grievances of New England against the general government. "In this whole series of devices and measures for raising men"—alluding to the authority exercised over the militia by the executive and legislative departments of the national government, Monroe's recommendation of a draft, and the law authorizing the enlistment of minors and apprentices—"this convention discovers a total disregard for the constitution, and a disposition to violate its provisions, *demanding from the individual states a firm and decided opposition.*" What kind of opposition? The report leaves no doubt as to the meaning of the convention. "That acts of Congress in violation of the constitution are absolutely void is an undeniable position." Who were to determine when acts of Congress were in violation of the constitution? Evidently, in the opinion of the convention, the states. For, "it does not, however, consist with the respect and forbearance due from a confederate state towards the general government to fly to open resistance upon every

The convention defends nullification.

* Lodge's Cabot, 322.

infraction of the constitution. . . . But in cases of deliberate, dangerous, and palpable infractions of the constitution, affecting the sovereignty of a state and the liberties of the people, it is not only the right but the duty of such a state to interpose its authority for their protection in the manner best calculated to secure that end. When emergencies occur which are either beyond the reach of the judicial tribunals or too pressing to admit of the delay incident to their forms, *states which have no common umpire must be their own judges and execute their own decisions.* It will thus be possible for the several states to await the ultimate disposal of the obnoxious measures recommended by the Secretary of War or pending before Congress, and *so to use* their powers, according to the character these measures shall finally assume, as effectually to protect their own sovereignty, and the rights and liberties of their citizens." In other words, *in case* laws passed by Congress were, in the opinion of the people of New England, "deliberate, dangerous, and palpable infractions of the constitution," the states were "to interpose their authority" for the purpose of nullifying the action of the general government.

Here again the convention painted its portrait in colors that time can never erase. At a period when the overthrow of Napoleon had left England free to concentrate her vast resources against us, when reports of the negotiation at Ghent showed that she refused peace

except on terms that were dishonorable and degrading, all that the Hartford convention could see in the efforts which the Administration was making to raise the troops which seemed an absolute necessity was their bearing on the constitution. The very life of the nation was in danger, and the members of the Hartford convention knew it. But that did not appeal to them. No fervor of patriotism made them feel that everything must be subordinated to the honor and safety of the nation except the personal honor of its citizens. They could reach no higher note than an exhortation to the New England states that if the government violated the constitution in its efforts to defend the nation, they should arise in their sovereignty and defeat its action!

The report then proceeded to state the opinions of the convention as to the course to be taken by the New England states in view of the fact that they had to provide for their own defence and at the same time pay taxes to the general government. The same spirit of disloyalty to the Union again appears. "When a great and brave people shall feel themselves deserted by their government and reduced to the necessity either of submission to a foreign enemy, or of appropriating to their own use those measures of defence which are indispensable to self-preservation, they cannot consent to wait passive spectators of approaching ruin which it is in their power to avert, and to resign the last remnant of their industri-

Hints at disunion.

ous earnings to be dissipated in support of measures destructive of the best interests of the nation. This convention will not trust themselves to express their conviction of the catastrophe to which such a state of things inevitably tends." The convention did not see fit to state the fact that the general government had refused to bear the expenses of the state militia *only* because their state executives refused to put them under control of the Administration.

With a view to avert an event which the convention affected to regard with so much horror, it suggested an arrangement by the terms of which the New England states should be allowed to assume their own defence, and a reasonable portion of the taxes raised in each state should be paid into the state treasury to be appropriated for that purpose. If Congress refused an application made for such purposes, "the legislatures of the states, or conventions of the whole people, or delegates appointed by them for the express purpose in another convention, must act as such urgent circumstances may then require."

The report concluded with five resolutions, one of which recommended that the states represented in the convention propose seven amendments to the constitution, and that they "*persevere in their efforts to obtain such amendments until the same shall be effected.*" The proposed amendments provided that representation and direct taxes should

The report recommends five resolutions.

be in proportion to the number of free persons; that new states should not be admitted to the Union without the concurrence of two thirds of both Houses of Congress; that Congress should not have power to lay an embargo for more than sixty days; that commercial intercourse with any foreign country should not be prohibited without the concurrence of two thirds of both Houses of Congress; that Congress should not declare war without the concurrence of two thirds of both Houses except in defence of the territories of the United States when actually invaded; that no person who should thereafter be naturalized should be eligible for membership in the Senate or House of Representatives of the United States, or capable of holding any civil office under the authority of the United States; that the President of the United States should not be eligible for re-election, nor should a President be elected from the same state two terms in succession.

Why did the convention recommend these amendments? Did they believe that the Southern states would voluntarily give up the power which they had in the government of the United States through their slave representatives? Did they believe that the majority would give to the minority the power to put a veto on the admission of new states into the Union? Did they believe that the party founded and organized by Jefferson and Madison would restrict its powers to lay embargoes and interdict commercial intercourse? Did they believe that the party which had declared war with-

out the concurrence of two thirds of both Houses of Congress would consent to an amendment of the constitution which would make similar action in the future impossible? Did they believe that the party of which Gallatin and Dallas were honored members would consent to deprive itself of the great abilities of such men who might thereafter be naturalized? Did they believe that the people whose electors had unanimously elected Washington to a second term and had given to Jefferson, at the time of his re-election, one hundred and sixty-two out of one hundred and seventy-six votes, would consent that no President should henceforth be eligible for re-election?

The members of the convention were not inexperienced enthusiasts, prone to confuse the rational and desirable with the unattainable. They were trained politicians, thoroughly acquainted with the motives that influence men in public life. What was their motive, then, in recommending amendments which they knew would not be consented to, and, above all, *in urging the New England states to persevere in their efforts to obtain such amendments until they got them?*

Reason for recommending these resolutions.

Taken in connection with the rest of the report, the inference is irresistible that the convention meant that the New England states should take advantage of the desperate situation of the United States, and make the adoption of those amendments the condition of their remaining in

the Union. Every member of the convention knew with the certainty of demonstration that the necessary majority would not *voluntarily* consent to the proposed amendments. If, therefore, the New England states were to persevere in their efforts to obtain them until they got them, their efforts must be of such a sort as to compel the other states against their will to consent to them.

If the application to Congress on the part of the New England states for a part of the taxes raised in these states, to be devoted to their own defence, was unsuccessful, and peace should not be concluded and "the defence of those states" continued to "be neglected," the convention recommended the legislatures of the New England states to appoint delegates to another convention, to meet in Boston on the third Thursday of the following June "with such powers and instructions as the exigencies of a crisis so momentous may require." It is not to be doubted that the convention meant to insinuate that such a crisis could be fitly met in but one way: the withdrawal from the Union of New England and such states as chose to confederate with it, and the establishment of a Northern Confederacy.

Another convention to be called in certain contingencies.

Theodore Dwight, the secretary of the convention, afterwards its historian, says that the report "advanced no doctrines which had a tendency to destroy the union of the states." As to the truth of this assertion, the reader is now in a

Dwight on the convention.

position to judge. "On the contrary, it breathed an ardent attachment to the integrity of the republic." (One is forcibly reminded of one of Cadore's statements to Armstrong: "His Majesty loves the Americans.") "Its sentiments were liberal and patriotic." Patriotic in respect to what? Is there a line in the report which showed regard for anything but the New England states? If the country of the members of the Hartford convention was the whole United States, this report was unpatriotic to the last degree. The country was engaged in what the members of the convention had the best of reasons for regarding as a desperate struggle for its existence. The government was bankrupt; its army a mere skeleton in comparison with its needs; its enemy vindictive and powerful, flushed with victory over the greatest military genius of modern times. One British army had landed at New Orleans, and another was on our northern frontier. But not a line of the report alluded in the most indirect way to the difficulties of the country, or showed any appreciation of its dangers.

Henry Cabot Lodge on the convention.

A more recent apologist, Mr. Henry Cabot Lodge, does not enlarge upon the patriotism of the members of the convention. In the biography of his grandfather, George Cabot, he admits that his object is to present one side, and that the side of the Federalists, "in the strongest and clearest light." Unfavorable testimony from him, therefore, has great value, because it is the testimony of an unwilling

witness. But Mr. Lodge admits that the convention said plainly to the general government: "Unless you alter your present policy, a dissolution of the Union will ensue"; and that it "intended to coerce the Administration by threatening them with separation." He admits also that it adopted and favored the doctrine that "the states had a right to nullify laws of the United States which were in their opinion unconstitutional." These admissions, as we know, any candid student of its report is compelled to make. To summarize, then, the work of the convention in one short sentence: it advocated the doctrine of nullification, and threatened the dissolution of the Union. The most significant fact of all is that not a single Federalist in the United States, in any speech or letter which has been handed down, expressed any disapproval of its action.

We may agree with Mr. Lodge that the members of the Hartford convention are worthy of "honor and respect"; since, "believing as they did, they shrank not from what they considered their duty to their state, their party, and themselves." But as long as patriotism is accounted a cardinal virtue, the verdict of history must be that they would have been still more worthy of honor and respect if they had been as mindful of their country as they were of their state and their party.

CHAPTER XVIII.

THE ENGLISH LIBERALS AND THE AMERICAN FEDERALISTS.

GALLATIN and Bayard reached St. Petersburg July 21, 1813. About the middle of August, the former received a letter from Alexander Baring which stated that the English government "would not accept the mediation of Russia; that . . . before this reaches you, you will have been informed that the mediation has been refused, with expressions of desire to treat directly and separately."* Not until November 4 was the proposal to treat directly made—and then only when Russia repeated her offer to mediate. On that date, Castlereagh instructed the English minister at the Russian court to assure the Czar that England was ready to treat with the United States directly. A copy of the letter in which the English minister transmitted this assurance was sent to Monroe. He received it January 3, 1814, and immediately accepted the offer therein contained.

England refuses Russia's offer of mediation.

About the middle of October, 1813, Gallatin learned that the Senate by a majority of one had refused to confirm his nomination as commissioner on the ground that

* Gallatin's Writings, I., 546.

he had not resigned his position as Secretary of the Treasury. Convinced that, owing to factional dissensions in the United States, he could do nothing, and not having received official information of his rejection, he remained in Russia until the latter part of January, when he set out for Amsterdam. On March 4, when he arrived at that city, he learned that Madison had accepted Castlereagh's offer, and had appointed a new commission, consisting of Adams, Bayard, Henry Clay, and Jonathan Russell. Gallatin was added to the list as soon as Madison learned that he had remained in Europe. Some time in April, he and Bayard went to London to await the action of the British government.

The American commission.

England was in no hurry. Thousands of the veterans who had learned how to fight in the war with Napoleon had been sent to the United States, and England thought it expedient to wait until the United States had received the punishment which those veterans were expected to inflict before negotiating a treaty. Not until June, 1814, therefore, was it announced that the British commissioners were ready to leave for Ghent—which had finally been selected as the place of meeting.

England's delay in appointing commissioners.

The English commissioners first demanded, as a *sine qua non,* the cession to the Indians of the territory now occupied by the states of Michigan, Illinois, and Wisconsin, the larger part of Indiana, and nearly half of Ohio;

the cession to be under British protection, and the United States to pledge itself never to buy it. Then they withdrew this demand and substituted for it the demand that each party should keep the territory of which it should be in possession when the treaty should be signed. This they likewise withdrew, thereupon agreeing to sign a treaty which gave to each country the territory which belonged to it at the beginning of hostilities. The American commissioners, on their part, acting on instructions from their government, finally signed a treaty in which not a word was said about the causes of the war.

The treaty.

Nevertheless the American government was not without justification in regarding the treaty as a practical abandonment of the claims of England against which this country had protested. For, with the knowledge which the British government had gained of our naval capacity, little penetration was needed to predict that its haughty disregard of the United States on the ocean was a thing of the past when it made a treaty in which its alleged rights were not definitely conceded.

When the news reached the United States that a treaty had been signed by the commissioners of the two countries, there were eager manifestations of joy. People did not wait to learn what kind of a treaty had been made. They were so glad that the war was over that they were willing to assume that any treaty was a good one. Nor was

The treaty ratified.

their joy diminished when the terms of the treaty were known. Jackson's wonderful victory at New Orleans had provided an abundant salve for any wounds which the national pride had received, and the Senate ratified the treaty without a dissenting vote.

The day the messenger bearing the treaty of Ghent reached Washington, the commissioners appointed by Massachusetts to present the demands of the Hartford convention to the government rode into the city. Realizing that the making of the treaty had left them without an occupation, they did not presume to undertake to carry out their mission. "After a short and sorry sojourn," says Ingersoll, "they slunk home by illuminated roads and cities, hiding themselves from a delighted and exultant people."*

The Hartford convention commissioners.

This Massachusetts mission may fairly be regarded as the last act of the once great Federalist party. It did indeed linger a few years longer upon the stage of his-

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* War of 1812, II., 241. The Republican papers did not take the trouble to spare the feelings of these Massachusetts gentlemen in making merry over their sudden disappearance. The "National Advertiser" published the following advertisement:

"*Missing.*— Three well-looking, respectable men, who appeared to be travelling towards Washington, disappeared from Gadsby's Hotel on Monday evening last, and have not since been heard of. They were observed to be very melancholic on hearing the news of the peace, and one of them was heard to say with a sigh, 'Poor Caleb Strong!' They took with them

tory. But the shadowy motions by which it tried to cheat itself and others into a belief that it was alive deceived no one.

The Federalists as an opposition party.

During the first four years of its career as an opposition party, it rendered the country great service. It successfully defended the Supreme Court from the assaults which were made upon it by the Republicans in the interests of doctrinaire democracy. That defence was the last great service which the party of Washington, Hamilton, John Adams, and John Marshall rendered the United States. The Federalists' distrust of Republican government; their hatred of Napoleon, and of Jefferson whom they believed to be in league with Napoleon; their blind admiration of England, and their profound sympathy with the opinions and prejudices of the Tory government of England; their sectionalism, their intense jealousy of the Southern and Western states, deprived them of the power to judge dispassionately and fairly between their own country and England. At every stage of the controversy

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their saddlebags, so that no apprehension is entertained of their having any intention to make away with themselves. Whoever will give any information to the Hartford convention of the fate of the unfortunate and trustful gentlemen by letter (post-paid) will confer a favor upon humanity. The newspapers, particularly the Federalist newspapers, are requested to publish this advertisement in a conspicuous place and send in their bills to the Hartford convention.

"P. S. One of the gentlemen was called Titus Oates or some such name."

between the United States and England, according to their contention, England was right and the United States was wrong.

There are indeed historians who continue to confuse the case between the United States and England. Realizing that England's mighty struggle with Napoleon was the struggle of constitutional liberty with its enemy, these historians see in the embargo and the War of 1812 practical alliance with Napoleon against the defender of the best interests of civilization. They forget that the embargo was laid because the British government arrogated to itself the right to tax American produce; that when Jefferson offered to withdraw it as to England and continue it as to France if England would cease to violate our rights, that offer was insultingly rejected; that an arrangement which would have brought about practical alliance between the United States and England was repudiated. Everything that the American government could honorably do to put the United States in substantial alliance with England against Napoleon was done. The only condition upon which Canning would permit the United States to take sides with England was that England should be permitted to treat this country as a subject state.

Justness of the War of 1812.

If Canning had hated democracy less intensely, if he had been statesman enough to rise above his prejudices and summon to the aid of England all of the

forces that could be hurled against the enemy of constitutional liberty after the autumn of 1807, this country would doubtless have been in practical alliance with England. But, like the Federalists, Canning was so hidebound that he could not treat with respect a government in which the ideas of democracy found expression. The arbitrary conduct of Napoleon gave him and his party an opportunity, which not even the manifest interests of England could induce them to forego, of observing towards the United States "no rule but their own will, no other right but their own physical strength."*

It may be urged that the American government had no right to demand the repeal of the English orders on the ground that Napoleon had repealed his decrees. Certainly not. Madison put the country in a false position in demanding the repeal of the orders on that ground. But orders which were based on no other right than the physical strength of England to enforce them ought never to have been issued. Madison was wrong, therefore, not in insisting upon their repeal, but in insisting upon it for that reason.

Some English historians tell us that the repeal of the English orders in June, 1812, removed the ostensible ground of complaint against England. Alison says: "No cause of complaint or hostility now remained. For although the right of search exercised by the British, in

* McCarthy's History of Our Own Times, I., 321.

conformity with the common maritime law of nations, may have afforded a fit subject for remonstrance and adjustment, it was no ground for immediate hostilities."*

On every point the verdict of history is against Sir Archibald Alison. That same right of search which he thinks gave the United States no cause of complaint or hostility, when exercised in a single instance (in our Civil War) by an American vessel against England brought from the British government an instantaneous demand that the United States should disavow the act; and the demand was couched in such terms as to leave no one in doubt that failure to comply with it would mean war with England.

The impressment of American citizens no cause of hostility? The British minister, Lord Palmerston, did not think so when, in 1850, he asked the House of Commons to decide "whether as the Roman in days of old held himself free from indignity when he could say *'Civis sum Romanus,'* so also a British subject, in whatever land he may be, shall feel confident that the watchful eye and the strong arm of England will protect him against injustice and wrong."

No: as to the justness of the War of 1812 there ought to be no doubt to-day in the mind of any competent student of history. To say that it was unjust is to draw

* Alison's History of Europe, XII., 102.

an indictment against some of the best tendencies of modern civilization.

But why not declare war against Napoleon? For a most excellent reason: the impossibility of waging it. France presented no vulnerable point. Pinkney said in 1810 that a war with France was about as practicable as war with the moon. England had destroyed the navies and driven the commerce of France from the ocean. Our chief opportunity to injure Napoleon in 1812 was to open our ports to the commerce of England, and thus help to deprive his Continental System of the power to injure his enemy.

If a war had been as practicable against France as it was against England, it would certainly have been proper for the American government, when its resources were unequal to the task of waging war at the same time against two such antagonists, to select the one that was inflicting upon the United States the greatest injuries.

But when Alison calls in question the *expediency* of the war on the part of the United States, he stands on different ground. By refusing to use his influence to stop the war after the English orders had been repealed, Madison incurred a responsibility such as no other American President has ever assumed. Our success on the ocean was far beyond what any one had ever ventured to anticipate. Our success on land was surely as great as a man of Madison's temperament could have expected, especially

Expediency of the war.

in the year 1814. Mr. Henry Adams says: "Had a village rustic, with one hand tied behind his back, challenged the champion of the prize ring, and in three or four rounds obliged him to draw the stakes, the result would have been little more surprising than the result of the American campaign of 1814." But in spite of this, the war put the Union in great danger.

Nevertheless, as it resulted, it was well that it was fought. It gave to the American people the consciousness of being a nation. "It put an end," says Mr. Carl Schurz, "to the last remnant of colonial feeling. From that time forward there was no longer any French party or any English party in the United States; it was thenceforth all America as against the world."

The natural legacy of bitterness towards England which it left behind might have been somewhat diminished if Americans had realized that the policy of the British government towards this country was the work of Tory England; that besides this England there was another — an England that defended at almost every point the cause of the United States. The British Liberals contended in the British Parliament for the rights of the United States not much less vigorously than did the Republicans in the American Congress.

On February 4, 1807, the Tory Castlereagh complained that since the publication of the Berlin Decree "some communication had taken place between the Amer-

ican minister in this country and the French government, in consequence of which some practical relaxation of the decree had taken place. This was one ground why we should look upon America with jealousy, and it was an aggravation that she had . . . contrived to take her shipping out of the operation of the decree." * As though the decree of Napoleon was any of our business as long as it was not enforced against us!

In reply Lord Howick said: "Would he [Castlereagh] advise that because America was exempted by France from the operation of a measure hostile to all neutral powers, . . . we ought to declare war against America? In truth, the whole of the noble lord's argument seemed to be this: that as America was exposed to the injustice of France, she ought to be exposed to further injustice from this country." †

Speaking of the Order in Council of November, 1807, Lord Erskine (father of the Erskine whose arrangement Canning afterwards repudiated) said: "What was the value of the decree which Bonaparte, drunk with his victories, had issued? It was worth no more than the paper on which it was written. What was the use of talking of blockading Great Britain when he had scarcely a ship on the ocean to enforce his decree? He might as well have talked of blockading the moon." ‡

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* Cobbett's Debates, VIII., 644.
† Ibid., 652. ‡ Ibid., X., 493.

In March, Lord Erskine made a speech in the House of Lords in which he riddled the arguments by which the Tories attempted to defend their high-handed invasion of the rights of nations. "If A strikes me, I may retaliate by striking A. . . . But it is a new application of the term retaliation that if A strikes me I may retaliate by striking B. . . . I cannot conceive anything more preposterous and absurd than the idea of retaliating upon a neutral a decree which has never been executed, because it is only by its execution upon him that we can be injured." He proved that the Berlin Decree was a mere threat, so far as the rights of neutrals were concerned. "You had, up to the very 11th of November [the date of the English orders], a revenue full and overflowing. As to our commerce, the air was white with the sails of America, and the sea was pressed down with her shipping, . . . carrying our commodities and manufactures to every corner of Europe. . . . America continued to smuggle your goods into France for her own interest, and France continued to buy them for hers. The people huzzaed their Emperor in the Tuileries every day, but they broke his laws every night. This was our condition before the 11th of November — England had the trade of the whole world, whilst France had only an empty libel on the law of nations stuck up on the posts of Paris. . . . I believe, indeed, that out of Doctors' Commons the existence of the Berlin Decree was scarcely known or heard

of. . . . You are playing the very game of France by throwing America into her arms against yourselves, when she would soon have been provoked to fight by your side if her commerce with this country had been interrupted. And this, it seems, is retaliation!"*

Erskine concluded his speech by moving eight resolutions, for which the House of Lords gave sixty-one votes to one hundred and twenty-seven against them.

On February 17, 1809, Lord Grenville, in support of a motion to repeal the Orders in Council, said: "They [the English ministers] issued their Orders in Council to compel the vessels of an independent state to pay duties to the British government for leave to carry on their trade. . . . This attempt to lay duties upon the ships and merchandise of the United States bears a close analogy to the attempt made forty years ago to lay taxes in America. . . . We were told in high-sounding language, when this measure was before Parliament, of the sums which would be raised by the duties levied upon neutral commerce."†

A Liberal in the House of Commons, G. Tierney, commented, January 19, 1809, on Canning's insulting letter to Pinkney in September, 1808: "The very style of this letter is such that nobody can read it without feel-

* Cobbett's Debates, X., 930–942.

† Ibid., XII., 771.

ing that it is calculated to goad an independent mind almost to madness. . . . Is it not deplorable, sir, that, for the sake of a few pointed periods and well-turned sentences, any individual should do such incalculable mischief as the right honorable gentleman has done by that letter."*

On March 6, 1809, Whitbread made a speech in the House of Commons in which he said: "The present servants of the crown could not divest themselves of that political rancor against America which seems to foster in their breasts. From the period of their appointment to office, this seems to have been the prevailing feeling which has characterized their conduct towards that nation. America has had various causes of complaint against this country: as to the impressment of her seamen, the depredations committed upon her commerce, the violation of her territory by boats' crews belonging to British ships going ashore there and insulting the peaceable inhabitants, and by the burning, within her waters, of vessels which may have escaped from the French islands. At last these causes of complaint were greatly aggravated by the insult offered to America in the illegal, unauthorized, unjust, and aggravated attack made by the 'Leopard' upon the 'Chesapeake,' by the order of Admiral Berkeley. . . . The right honor-

* Cobbett's Debates, XII., 87.

able gentleman [Canning] then sent out a special minister to offer reparation. . . . It was obvious from the time at which Mr. Rose sailed, from the manner in which he executed his mission, and the circumstances of his leaving America, that anything but conciliation was meant by his Majesty's ministers. Though he sailed from this country on the 12th of November, the day after the orders issued, no intimation was given by him to the American government of such orders having been issued by his Majesty's government; whilst the direct object of his mission was unaccountably coupled with the proclamation of the American government, relative to the interdiction of British ships of war from domestic waters. Great Britain, the aggressor in an aggravated attack upon a neutral power, refuses to enter into a discussion of those means of reparation which were due for such an attack, unless, as a preliminary, America consented to withdraw the very measures of defence to which that power had resorted in her own defence against that very aggression. Could ministers seriously expect that any independent power would have submitted to such a degrading proposition as they made? Did the right honorable gentleman fancy that he could call on the American government to crouch at his feet, in the same manner as we read of Louis the Fourteenth calling upon the doge of Venice? . . . . For the aggravated and wanton attack upon the 'Chesapeake' Admiral

Berkeley was not only not brought to trial, but immediately despatched on another and delicate command."*

Of Canning's refusal to revoke the English orders on condition that the United States withdraw the embargo as to England, Whitbread said: "What, in God's name, would you have? What do you want of America? Have you any definite object in your policy with that country, and what is it? The blockade of this country by the enemy is raised, as the right honorable gentleman asserts. . . . The evils on which your orders were to retaliate have disappeared, as the Foreign Secretary has assured us; yet in the same breath he avows the determination of adhering to this unjust and disastrous system of retaliation. . . . Such a system will descend to posterity as a striking instance of arrogance, imbecility, and political folly on the part of its advisers."† He concluded his speech by moving an address praying the king to adopt such measures as would bring about the re-establishment of commercial intercourse between England and the United States.

In support of this motion, Grattan said: "What continues the embargo? America offers to take off her embargo if you will rescind your orders. . . . Who is now the cause of the embargo when you yourselves refuse to do that which, if done, would remove it? Is it

* Cobbett's Debates, XII., 1170, 1171.
† Ibid., 1174.

so? Then how does this country stand in point of right? Do you join with an unoffending neutral and visit France with the consequences of her own insolence and injustice? No; but you join yourself to France against that neutral. It is a bad retaliation of a worse principle. It is a sort of wicked emulation in injustice. . . . Who now enforces the Berlin Decree? England. Who created, who continues, the embargo? England. She does more: she repels America from her. She does still more: she drives her into the very arms of France. . . . The honorable gentleman says that America is indisposed towards us. I lament it and would remedy it. . . . You have gradually chilled her into a state of frozen alienation, and then you charge her with the ingratitude of coldness! And what have you done it for? To compel her to come over to this country and pay a tax to us for allowing an independent country the privilege to trade! But what effect must this have on America? You will send her in quest of those resources that will ultimately make her independent of your manufactures. You make the enemy a nation of soldiers, and America a nation of manufacturers, and thus do all you can to enable the one to beat you, and the other to starve you. . . . Be warned by the infatuation that once lost you America, and let not the same infatuation drive her now into the arms of France."*

* Cobbett's Debates, XII., 1190–1202.

When the question was put on Whitbread's motion, there were eighty-three votes for it and one hundred and forty-five against it.

In June, 1811, in a speech prefacing a motion requesting that copies of the correspondence between Pinkney and Wellesley be laid before the House, Whitbread said he was convinced that America, a country deserving the highest consideration and respect, had been treated by Great Britain more as an humble dependent on an illiberal protector than as an equal state."*

In the same speech, he made good his assertion by making a summary of the correspondence between Pinkney and Wellesley: "On January 2, 1810, Mr. Pinkney wrote a letter to Lord Wellesley on the subject of the recall of Mr. Jackson; no answer was received until March 14. . . . On April 30, Mr. Pinkney wrote a letter on the subject of the repeal of the Berlin and Milan decrees; he received no answer. On May 16, he wrote a letter on the subject of the countenance given to the forging of American papers, to which he received no answer. On June 23, Mr. Pinkney wrote a letter to Lord Wellesley referring to his letter of April 30, and requesting a reply to it. To this second letter on the same subject he received no answer. On August 18, he wrote another letter referring to his former letters of April 23 and June 30 respecting the Berlin and Milan

* Cobbett's Debates, XX., 717.

decrees. To this third application on this subject Mr. Pinkney received no answer. On September 15, Mr. Pinkney wrote to Lord Wellesley on the three several subjects of the mission of Sir James Saumarez to blockade Elsineur, the condemnation of an American vessel, and the impressment of some American sailors. This letter was not answered until September 29, and then only as it regarded the blockade of Elsineur; the matter of the American vessel was referred to Sir William Scott, by whom it was subsequently restored; and no mention whatever was made of the impressed seamen, although they were afterwards released by order from the Admiralty. This last circumstance was a most gross neglect. A minister from a foreign state made a representation to government, of the justice of which their ultimate conduct was an acknowledgment; and yet they did not condescend to notice the representation itself!"

In February, 1812, speaking in support of a motion to have the same papers laid before Parliament which Whitbread had made a vain effort to have brought before the House of Commons some months before, Curwen said: "Was there a single individual in this country (supposing America had treated the British minister in a similar manner) who would not have held up his hands in favor of war?"* The papers had already been published by the American government; the Liberals wanted

* Cobbett's Debates, XXI., 775.

them brought before Parliament in order that they might discuss them.

In the same debate, Sir T. Baring said: "We never could seriously mean to call upon America to resist that part of the French decrees which related to the interdiction of our trade with those ports of the continent over which France exercised authority. Could it be maintained that America was bound to insist on France recalling what was called the Continental System? They might as well be called on to insist that the Bourbons should be restored to the throne of France."*

In March, 1812, Brougham delivered a speech introducing a motion for the appointment of a committee to inquire into the effects of the Orders in Council and the license trade, in which he made a very vigorous attack upon those orders on a new ground. Brougham showed the utterly fraudulent character of those orders. While England pretended that they were issued for the purpose of cutting off all trade with the empire of Napoleon, she in fact licensed that trade for her own benefit, and that on a large scale. In other words, trade which America was forbidden to engage in on the alleged ground that such interdiction was a measure to which England reluctantly resorted in order to defend herself against the attacks of her enemy, she herself engaged in, thereby confessing in the most unequivocal manner that her object was to make an attack

* Cobbett's Debates, XXI., 784.

upon the commerce of neutrals—not, as she alleged, upon her enemy. Said Brougham: "In 1807, the number of licenses granted amounted to only 1600; and in 1810, it appears that they amounted to above ten times that number—to upwards of 18,000. . . . What are the effects of this system on the enemy? Why, it at once gives up to him all that remains of the principles of the Orders in Council; because . . . if every man who wishes to trade with France and Holland has only to ask for a license, what, I ask, is to become of the blockade of 1809? We are now, therefore, carrying on a trade which is open to the enemy, but shut to all neutrals except those who choose to partake of the licensing system." *

Brougham showed that the license system—a system rendered necessary, be it remembered, by England's arbitrary invasion of the rights of neutrals—was a "system of simulation and dissimulation from beginning to end." He read to the House the following sentence, which formed a part of every license: "The vessel shall be allowed to proceed notwithstanding all the documents which accompany the ship and cargo may represent the same to be destined to a neutral or hostile port, or to whomsoever such property may appear to belong." He explained the meaning of this clause: "Perhaps the full import of this clause is not known to this House. It is

* Cobbett's Debates, XXI., 1175.

proper that they should be informed that papers are put on board stating the actual place from which the ship cleared out, signed in the proper and usual manner, with letters from the shipowner to the proper persons; and that those real documents form what are called the ship's papers. By this license the captain is enabled to take on board another set of papers which are a forgery from beginning to end, and in case his vessel happens to be overhauled by cruisers, he escapes detention. If the ship happens to clear from London, it is perhaps said to clear from Rotterdam; and if it be necessary that the paper should be signed by a minister of state, as is the case in Holland, his handwriting must be forged, frequently that of the Duke of Cadore, or perhaps, as I happened to see the other day, that of Napoleon himself. Not only are the names forged, but the seal is also forged, and the wax imitated. But this is not enough. A regular set of letters is also forged, containing a good deal of fictitious private anecdote and a good deal of such news from Rotterdam as might be supposed to be interesting to mercantile people, and a letter from a merchant in Rotterdam to the shipowner. Thus provided, the vessel sails, and the object of the clause in the license which I have just read is to prevent her from being seized by any of our cruisers who may intercept her." And this systematization of fraud and perjury it was which Canning was so anxious to adhere

to that he required constitutional impossibilities of the United States as the condition of abandoning it! This alliance between fraud and robbery the Federalists could not get the consent of their minds to heartily condemn!

When the United States declared war against England, the Liberals did not imitate the example of the Federalists—they supported their government. But they did not by any means support it in all its pretensions. In February, 1813, Lord Holland said: "The noble Secretary of State was, he conceived, not correct in stating that no country had ever claimed authority over naturalized subjects. A statute of the second of Queene Anne was then lying on their table which extended the protection of this country to any person in any state of Europe taking the oath of allegiance to the British government."*

Baring, in the House of Commons, asked: "What would we say if sixteen hundred of our men were shut up for life in America? Would it not be a good ground for calling on that power for redress? . . . Supposing America was at war with France, and this country at peace, would we consent to all our citizens being impressed who could not produce certificates?"†

Speaking of the delay in making the treaty, Sir James Mackintosh said: "It was impossible to explain this delay

* Cobbett's Debates, XXIV., 586.
† Ibid., 621.

unless on the miserable policy of protracting the war for the sake of striking a blow against America. The disgrace of the naval war was to be redeemed by protracted warfare and by pouring our victorious armies on the American continent." But for that delay it would have been "impossible that we should have sent out orders for the attack on Washington. We should have been saved from that success," which he considered "a thousand times more disgraceful and disastrous than the worst defeat."*

The same speaker, discussing the demands of the English commissioners for the cession of a large tract of territory to the Indians, said: "There never was such an attempt made by a state to secure its own dominion by desolation, to guard by deserts what they could not guard by strength. . . . The American ministers, by their resistance to so insolent and extravagant a demand, maintained the common cause of civilized men; and the English, who, by advancing so monstrous a pretension, had protracted the miseries and the bloodshed of war, who had caused the sad defeat of New Orleans and the more disgraceful victory of Washington, had rendered themselves accountable to God and this country for all the accumulations of evils which marked the last months of an unnatural war."†

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* Cobbett's Debates, XXX., 526.
† Ibid., 531.

These various extracts—and they might be multiplied indefinitely—tell their own story. They show that there was an England that advocated our cause since it was the cause of justice and right. They show also that the Federalists were much more ready to excuse England in her violation of our rights than were the English Liberals. In truth, the Federalists were only American Tories, and the Republicans were American Liberals.

CHAPTER XIX.

DEMOCRACY AND REPUBLICANISM.

IF the war had continued a year longer," wrote Jefferson, "it would have upset our government." That the government was in a position of extreme danger when peace was made will not be questioned. It was on the brink of a precipice; powerful forces were tending to drag it over, forces which seemed to be gaining in strength with every day of the war. Whether it would have been able to save itself from destruction if the war had continued much longer it would be idle to inquire. But how did it get into that position? Was its danger the result of circumstances beyond the control of human intelligence, or was it in part at least the result of errors of statesmanship?

Position of the government at the close of the war.

It will hardly be doubted that the government took the first step towards danger when, by repealing the internal taxes and appropriating more than seven millions yearly to the payment of the public debt, it announced to the world that provision for defence against insult and aggression was a matter of secondary importance. That action was based on two false theories: that the one supremely important thing was the prompt payment of the public debt,

The errors which led to the dangers of the war.

and that commercial restrictions could be relied on as a protection against insult and aggression. If the ideas to which Calhoun afterwards gave such vigorous expression had determined the course of the government during Jefferson's two administrations; if, continuing the policy of the Federalists, the payment of the public debt had been treated as a matter of little moment in comparison with the maintenance of the rights of the country, either there would have been no war at all, or the war would have been fought under very different circumstances. Adherence to the Federalist policy would have made the enlargement of our navy a matter of the first importance. The possession of an adequate navy would have enabled the government to avoid the cardinal blunder of the war, the attempt to invade Canada. Without such a navy, the invasion of Canada was a necessity; there was no other way in which the war could be waged. But if the war could have been fought where it ought to have been, on the ocean, it would not only have inflicted much greater injury on the enemy, but it would have been much less unpopular in New England—and it was the opposition to the war in New England which brought the government so near to destruction.

The next step was taken as the result of an attempt to cheat Spain out of West Florida. Serious as was the first blunder, it was of trifling moment in comparison with this. The first blunder only invited the outrages of England and Napoleon, and compelled us to choose be-

tween submitting to them and resenting them under disadvantageous circumstances. But when, in order to get the help of Napoleon in perpetrating the fraud on Spain, the government appropriated the two millions which were intended as a bribe to him, and at the same time enacted the Non-importation Law, it became probable that the war which ought to have been expected sooner or later would be fought with a divided country. A divided country! That was the one danger which might prove fatal.

The next step, the embargo, was of the same sort. Although it inflicted great injury on the entire country, the men who suffered from it most directly were precisely those whom the legislation just mentioned had convinced of Jefferson's subservience to Napoleon.

For the next step New England was responsible. If Congress had followed the lead of Madison and Gallatin in 1809, if England and Napoleon had been given the alternative of ceasing their aggressions or of going to war, there is great probability that the war would have been fought against France alone. In such a war the whole country would have been united. It would have been a war not only in defence of our rights, but against the great enemy of constitutional liberty.

The next long stride was taken when Congress refused to charter the National Bank. If Gallatin's personal enemies had been patriotic enough to refuse to strike a blow at him when they could not injure him

without injuring the country, if the Old Republicans had waived their constitutional scruples, if the representatives of the interests of the state banks had refused to trade and barter at the expense of the country, the paralysis which palsied the arm of the government in the winter of 1814 would not have overtaken it. The terrible effectiveness of the disloyalty of the New England Federalists was due to the destruction of the Bank. If the National Bank had been in existence, its credit would have enabled the government to draw on the resources of the country, and as long as that were possible there would have been nothing to fear.

The next step was taken when Madison treated the promise of Napoleon as equivalent to the revocation of the Berlin and Milan decrees, and when Congress confirmed his action. Few indeed were the Federalists who were not thereby convinced that the commercial interests of the country were sacrificed at the bidding of an unscrupulous tyrant.

When the Twelfth Congress met for its first session in 1811, the situation of the government was complicated by the fact that a new Republican party, or rather a really Democratic party, was coming into being—a party whose ideals and theories were very different from those of the old Republican party of which Madison was the official representative. If Clay, Calhoun, Cheves, Lowndes, and Grundy had been in sympathy with Madison's ideas, the government would have drifted on, con-

tinuing to fritter away the resources of the country with restrictive measures until the peace in Europe removed the occasion for them. It was the character and influence of these new Republicans, the men who were beginning to feel intensely that the whole Union was their country, and whose energy could not be contented with resorting to protective measures which experience had shown to be futile, which made that course impossible. And the most dangerous thing about the situation of the government was precisely this: its course was sure to be determined by two influences by no means harmonious in character: through the action of one of them it might declare war; through the action of the other it might fail to adopt measures which were essential to its vigorous prosecution.

The war party was composed of Democratic Federalists; they agreed neither with Madison and Jefferson in believing in the efficacy of commercial restrictions, nor with Gallatin in regarding all offensive war as a mistake. They were Federalists of the John Marshall type. But partly, perhaps, because they were not themselves conscious that their actions ran counter to the traditions of their party, partly because they were not able to bring all their followers up to their own point of view, they declared war like Federalists and undertook to wage it like Republicans. In other words, it was the influence of the ideas and traditions of Old Republicanism which prevented the Republicans, after war was declared, from lay-

ing the taxes which were essential to its vigorous prosecution. With the burden of the blunders of the past resting upon the government there was but one possible way by means of which it might avoid a position of extreme peril after Madison rejected the armistice: by laying such taxes as were necessary to support its credit. Whether the adoption of Gallatin's plan of finance would have preserved the credit of the government is open to doubt. But when Congress disregarded his advice, when it declared war without making any adequate provision for the support of the public credit, the crisis so long predicted by the Federalists at last became imminent. Happily for the country, before our blunders and follies had a chance to terminate in disastrous consequences, peace was made.

The peace of Ghent closed the second period in the history of the United States under the constitution. During the first period, the government was in the hands of a party that did not really believe in popular government. They shared with Carlyle the opinion that the people were mostly fools. They believed that a popular government must be a government by the populace, and that this must inevitably result in a government by the worst and most ignorant classes of society.

First period in American political history.

With the inauguration of Jefferson, the government passed into the hands of a party whose leaders believed enthusiastically in popular government. The men who

moulded its policy believed that the ignorance of the masses was more than offset by the inevitable selfishness of any governing class. The entire body of history seemed to them a continuous illustration of the certain wretchedness and degradation of the masses when government is in the hands of a class or an individual. Moreover, they believed that the same selfishness which had prompted the few to administer government in their own interests in the past would move the many to select intelligent and capable men to administer it in the interests of the people. Second period.

Coupled with these beliefs, in the political creed of Thomas Jefferson, were the doctrine of State sovereignty, the theory that commercial restrictions may be resorted to as an effective substitute for war, and opposition to a navy— matters that had no necessary connection with the theory of democracy. Jefferson, in other words, was both a Democrat and a states' rights Republican. He was, however, as we know, a Republican because he was a Democrat. If he had realized that commercial restrictions cannot be enforced without the exercise of odious and arbitrary powers; if he had believed that the liberties of the people are in as much danger from the governments of the states as from the government of the United States, he would not have been a states' rights Republican. That is to say, that the alliance between Democracy and states' Alliance between Democracy and states' rights Republicanism.

rights Republicanism was not a joining together of things that could not be torn asunder. It was a temporary union of systems whose incompatibility was sure to bring them into collision as soon as they undertook to carry out a positive programme. And one of the important results of the political trend of events from 1801 to 1815 was the dissolution of this alliance.

In 1815, then, the political history of the country under the constitutiton entered upon its third period. Democracy had shaken off its former ally and crushed its old antagonist.

But in the struggle between democracy and Federalism in the general government, it was the Democrats rather than democracy that triumphed. The Democrats beat the Federalists with the latter's own weapons. The constitution was the work of men who had a vivid sense of the dangers of democracy. Yet not a single one of its undemocratic features had been removed in 1815. The great power of the President had not been curtailed; the absolute power of the federal judges to make such decisions as they pleased, as long as they did not make themselves liable to impeachment, still remained.

Triumph of the Democrats over Federalism.

The meaning of these facts of course is that the Democrats were not doctrinaire in their democracy. If the voters who supported Jefferson in 1804 had wished to democratize the government, they could have done so. They could have provided that representatives, senators,

presidents, federal judges, all officers of every grade and rank should be elected directly by the people and should hold office but a single year. They could have required that every bill passed by Congress should be submitted to the people, and receive their approval before becoming a law. But they did not so elect. They preferred a government which would protect the people from their own ignorance and fickleness, a government which, while it derived all its powers from the people, was yet of such a sort as to increase the probability that it would be administered by the best and most capable men in society.

With Federalism annihilated and states' rights Republicanism discredited, Democracy entered upon the new era. Never again would the United States attempt to right its wrongs by embargoes. That part of the creed of states' rights Republicanism was dead. And although, in the light of the enthusiasm over the victory of New Orleans, it seemed unlikely that any considerable body of Americans would ever again care to contend that each state was independent and sovereign, that there was no such thing as an American people except in the geographical sense, a thoughtful observer would have hesitated to say that the dogma of state sovereignty was dead. That dogma had been the resort of minorities. A minority of Republicans had insisted upon it in 1798, when they felt

The dogma of state sovereignty.

themselves oppressed by the Alien and Sedition laws; a minority of Federalists had insisted upon it in 1804, when they felt that the annexation of Louisiana was contrary to their interests; the latter again in 1807-9, when they felt oppressed by the embargo, and once more in 1812–15, when they felt that their interests were sacrificed to no purpose in the war with England. To a thoughtful observer the reappearance in American politics of the dogma of state sovereignty would have seemed to depend on the question as to whether a state or a group of states, constituting a minority of the people, would come to have interests antagonistic to those of the rest of the states, containing the majority. Even in 1815, there were materials for an answer to that question. Even then it was inevitable that the interests of the slave and of the free states would diverge, inevitable that the states representing the minority would incline to resort to measures resting on the doctrine of state sovereignty for the protection of their peculiar interests. The question in 1815 was as to when that dogma would reappear — as to when the interests of a state or a group of states would seem to be in such jeopardy that the feeling of nationality in those states would be stifled and the sentiment of state sovereignty vivified. For unless the feeling of nationality should become a dominating force, there could be no doubt that the dogma of state sovereignty would again be a factor in American politics.

The eager, impetuous, enthusiastic Democracy of 1815 was not disturbed by these questions. Aside from the inevitable selfishness and ambition of individuals, the one object which the new leaders set before themselves was the promotion of the interests of the American people. They did not regard the general government as the foreign branch of our governmental system; they had no wish to reserve as much power as possible to the states; they were not afraid that a liberal construction of the constitution would endanger the liberties of the people; they did not intend that the American people should submit to insults from any nation, nor attempt to right their wrongs by commercial restrictions. The new leaders were animated by the spirit of the knight who has just won his spurs. Unhampered either by the theories of the Federalists or by the fears of the earlier Democratic leaders, they devoted themselves to the task of realizing for the American nation the great destiny which they believed was possible.

Policy of the new leaders.

It was, of course, inevitable that differences should arise as to the means to be employed towards this end, and, biassed as the opinions of men always must be by differences in temperament and selfish interests, inevitable that sooner or later the needs and interests of the masses should influence most strongly one set of men, and the needs and interests of the wealthy another; inevitable that the Democratic party would one day be opposed

by the logical successors of the Federalists, and that one of these parties would be in danger of going to an extreme in its efforts to improve the condition of the masses, and the other in its efforts to guarantee the rights of property. Whether these tendencies or the interests of slavery were to occasion the next division of parties was a question to be answered by the future.

While Democracy was struggling with its old ally, Republicanism, and its old antagonist, Federalism, to get control of the general government, it was becoming more and more influential in respect of matters reserved by the constitution to the states. On no subject was there more diversity of opinion in the Federal Convention than on that of the mode of electing the President. Until the last two weeks of its existence, the convention was resolved that the President should be elected by Congress—excepting the few days during which it favored election by the state legislatures. But it finally decided, as we know, to give to electors "appointed in such manner as the legislatures of the states may direct" the power to elect a President. And though for the first thirty years under the constitution the spirit of Democracy was not powerful enough to prevent presidential electors from being chosen by the legislatures of the states, no President after 1797 was chosen by electors who were free to vote according to their individual preferences. Jefferson, in 1800 and 1804, and Madison, in 1808 and 1812, were

Presidential electors.

nominated by a caucus of Republican congressmen, and every Republican elector was chosen with the understanding that he cast his vote for the candidate so nominated, no matter whom he personally preferred.

Democracy and qualifications for suffrage.

It was in the matter of qualifications for suffrage that the aggressive spirit of Democracy was most clearly manifested. The Declaration of Independence marked an epoch in the history of the world. Its two leading premises were that the rights of man are inherent, the gift of nature, not, as had been previously taught, the gift of government; and that all just government derives its authority from the consent of the governed. The conservation of the rights of man as man, not as the member of a privileged class or order, is the business of government; and as government exists for him, so it derives its authority from his consent.

But this sharp break with Old-World theory did not bring with it a corresponding break with Old-World practice. At the close of the Revolutionary War, the voters and office-holders in this country constituted an aristocracy as they did in England. With the exception of a few advanced thinkers, no one thought of universal suffrage. The general opinion, as reflected in the constitutions and laws of the various states, was that no one could be trusted to vote or hold office who did not possess property, generally in land, and who did not pro-

fess a certain religious creed. What proportion of the people belonged to this aristocracy of voters it is impossible to say. Professor Thorpe estimates that in a population of five millions not more than one hundred and fifty thousand were entitled to vote when, under the new constitution, Democracy began its struggle to make American practice correspond with American theory.*

The constitution leaves to each state the right to prescribe the conditions of voting. At the time of its adoption every state required of those who would exercise the elective franchise the payment of a certain amount in taxes, or the possession of a certain amount and kind of property, or both, and nine states added the possession of certain religious qualifications. By 1815 three of the original states had done away with one or both of the property qualifications, and the only new state which had imposed a condition of that sort was Tennessee. The constitution of South Carolina, adopted in 1790, of Delaware, adopted in 1792, and of Georgia, adopted in 1798, established complete religious liberty. The constitutions of the new states all contained a similar provision. Up to 1807, the towns of Vermont were required to support ministers and build churches by taxation. After that time the people of the state were permitted to do as they pleased about religious matters. In 1817, the

* Constitutional History of the American People, I., 97.

Democrats obtained control of Connecticut, and the next year a new constitution was adopted by which complete religious liberty was decreed. In 1819, a similar victory was won in New Hampshire. Laws interfering with the freedom of religion were still on the statute-books of Massachusetts.

The movement towards a more complete illustration of the principles of Democracy is clearly shown by five new articles which were incorporated in the constitution of Maryland in 1810. The first article repealed those parts of the constitution which required a property qualification of candidates for any office in the state. The second forbade the general assembly to tax the people of the state for the support of any religion. The third conferred the right of suffrage upon every white male citizen twenty-one years of age. The fourth struck at the theory that property, as such, is entitled to representation. It repealed those parts of the constitution which provided that persons who owned fifty acres of land in one of the counties of the state should be entitled to vote. The fifth repealed the article which made any field-officer of the militia eligible as a senator, delegate, or member of the council.

Constitution of Maryland.

Thus while Federalism — not the Federalists — was able to hold its ground in the general government, it had in 1815 been beaten on point after point in the states. So strong was the current towards Democracy that it was

evident that there were more victories to come. Whether the victories of Democracy would prove permanent, whether they would conduce to good government, were questions for the future to answer.*

* See Thorpe's Constitutional History of the American People, I., 77, 78, 79, 82, 83, 93, 94, 95, 96, for details as to qualifications for holding office and voting from 1776 to 1800; and II., 409, 410, 411, 412, 423, 424, for qualifications for office-holders from 1800 to 1850.

CHAPTER XX.

DALLAS' FINANCIAL POLICY.

ALTHOUGH but little more than two weeks of the session of Congress remained when the treaty of Ghent was received, sufficient time was left to develop the fact that neither the executive department of the government nor Congress proposed to revert to the ideas of Old Republicanism. Madison recommended that provision be made for the maintenance of an adequate regular army and the gradual increase of the navy, and Monroe, Secretary of War, that the peace establishment be fixed at twenty thousand men. The debate in the House of Representatives on a bill fixing the peace establishment at ten thousand men showed that Congress held similar opinions. Forsythe of Georgia said: "He had hoped that the spirit of calculation, falsely styled economy, had been for ever laid by the powerful exorcism of reason and experience." The bill became a law. Two hundred thousand dollars a year for three years was also appropriated for the gradual increase of the navy.

The Fourteenth Congress, which met for its first session December 3, 1815, was a very able body. Webster said in 1831 that he had seen no such Congress for talents. In the House were William Pinkney (who had served the

The Fourteenth Congress.

country as minister to England from 1806 to 1811 with much distinguished ability), Clay, Lowndes, Calhoun, John Randolph, Timothy Pickering, Webster, Joseph Hopkinson of Philadelphia, Forsyth, to say nothing of other able men; and in the Senate, Rufus King, Christopher Gore, Jeremiah Mason, James Barbour, and Robert Goodloe Harper. The House elected Clay its Speaker, and the next day listened to the President's message.

The message showed that Madison had drifted far from the moorings of Old Republicanism. It recommended an enlargement of the navy; effectual protection for manufactures; a national university; a national bank; such an organization of the militia as would make it the safeguard of a free state; and emphasized the importance of establishing "the roads and canals, which can best be executed under the national authority."

Madison's annual message.

But it was in the reports of the Secretary of the Treasury* that the tremendous swing of the pendulum from the provincial standpoint of Old Republicanism could be most clearly seen. No hint there that the general government was but the agent of independent and sovereign states; no allusion there to the political philosophy which makes the supreme virtue of government to consist

Dallas' reports.

* Annual report, report in relation to a national bank, report on the tariff. Finance, III., 1–19, 57–61, 85–95.

in inactivity,—in not interfering with the liberties of its citizens; no fear there that if direct and internal taxes were continued they would never be repealed. An entity that had no existence in the political metaphysics of Old Republicans spoke through the reports of Dallas—the nation. If the mind of Alexander Hamilton was concentrated on the anarchical elements of society which the government must make it its supreme duty to hold in check; if the minds of Gallatin and Jefferson were concentrated on the blessings which liberty would bring to the American people, and the fear that the government which was instituted to protect it might interfere with it, the mind of Dallas was concentrated on the American *nation* and the benefits which its agent and creature, the government, might confer upon it by a wise use of its powers. Dallas thought no more of the dangers of tyranny which filled so large a space in the thoughts of the Old Republicans than he did of the dangers of anarchy. From his standpoint, the nation was supreme, and to its will as expressed through its organ, the national government, the interests of states as well as of individuals must give way. "If," he said, "the national interests require the establishment of a domestic in preference to a foreign market, and the employment of domestic in preference to foreign labor," the interests of agriculture must be disregarded unless its interests are identical with the interests of the nation. If the national interests require that the people shall be as independent of

foreign nations "in the resources of their subsistence as they are in the operations of their government," the interests of foreign commerce, which flourishes most when it takes the natural products of the country to a foreign market and brings back the products of foreign manufacture, must be ignored.

In place of the old peace expenditure of ten millions annually, he proposed an annual expenditure of twenty-six millions (afterwards reduced to twenty-four, in order to comply with the recommendation of the Committee of Ways and Means) independent "of any provision for public improvements and public institutions such as the President has recommended; such as the patriotism of Congress may from time to time be induced to sanction; and such as will at once enlighten, enrich, and adorn the nation."

To meet these expenses he proposed to retain about seven millions of the direct and internal taxes which had been laid to meet the expenses of the war, and to raise seventeen millions by duties on imports, which duties were to be levied not simply with a view to revenue, but to the protection of such manufactures as tended to promote the welfare of the nation.

Report of the Committee of Ways and Means.

On January 9, 1816, Lowndes, chairman of the Committee of Ways and Means, reported a series of resolutions relating to revenue. The report was in substantial harmony with the propositions of Dallas. It recommended that a

revenue of some twenty-four millions be provided; that the direct tax, to the amount of three millions, and certain internal taxes be retained; that the duties upon imports be one hundred and forty-two per cent of those levied before the war; and that thirteen and a half millions be annually set aside for the payment of the public debt.

The debate on this report showed that the young Republican leaders, Clay and Calhoun, were fully as radical as Dallas.

In a speech delivered January 29, 1816, on a bill to reduce the direct tax, Clay outlined his policy. He protested vigorously against the reduction of the peace establishment below ten thousand men. He thought it good policy to take part with the patriots of South America who were rebelling against Spain. He believed it "could be shown, on the strictest principles of public law, that we have a right to take part with them, that it is our interest to take part with them, and that our interposition in their favor would be effectual. . . . My policy is to preserve the present force, naval and land; to provide for the augmentation of the navy, and, if the danger of war should increase, to increase the army also. . . . I would act on the principle that in peace we ought to prepare for war." He earnestly recommended internal improvements. He desired to see a chain of turnpike roads and canals from Passamaquoddy to New Orleans. He advocated protection for manufactures, "not so much for

Clay's policy.

the sake of the manufactures as for the general interest. We should then have our wants supplied when foreign resources are cut off, and we should also lay the basis of a system of taxation to be resorted to when the revenue from imports is stopped by war." *

Calhoun stated the question at issue between the advocates and opponents of the report in his usual clear and forcible style. "The broad question," he said, "was whether this government should act on an enlarged policy, . . . or whether we should go on in the old imbecile mode, contributing by our measures nothing to the honor, nothing to the reputation of the country."† On January 30, he delivered his views in detail in a comprehensive and able speech. "In the policy of nations," he said, "there are two extremes: one extreme, in which justice and moderation may sink into feebleness; another, in which that lofty spirit that ought to animate all nations, particularly free ones, may mount up to violence." Of the two, he considered the first far the more dangerous, far the more fatal. "I consider the extreme of weakness not only the most dangerous of itself, but as that extreme to which the people of this country are peculiarly liable. . . . There are on this floor men who are entirely opposed to armies, to navies, to every means

Calhoun agrees with him.

* Annals of Congress, 1815–1816, 776, 792.
† Ibid., 729.

of defence. Sir, if their politics prevail, the country will be delivered over to the mercy of any foreign power." He also believed that we were likely to have more wars in the near future. As to preparation, "the navy most certainly in every point of view occupies the first place. . . . Let its augmentation be limited only by your ability to build, officer, and man." He thought the present military establishment small enough. He was also in favor of internal improvements, "not only on the score of political economy, but to enable us in emergencies to collect the whole mass of our military means on the point menaced." He favored effectual protection to manufactures. "It was the duty of this country as a means of defence to encourage the domestic industry of the country, more especially that part of it which furnishes the necessary material for clothes and defence." He emphasized the necessity of coast defence. "The Administration which leaves these two points [the mouths of the Mississippi and Chesapeake Bay] without fortification ought to receive the execration of the country."

Nevertheless Calhoun showed in the conclusion of his speech that, however widely he had departed from the ideas of Jeffersonian Republicanism, he was still in fundamental agreement with Jefferson. "I know of no situation so responsible, if properly considered, as ours. We are charged by Providence not only with the happiness of this great and rising people, but in a considerable degree with that of

Calhoun and the American government.

the human race. We have a government of a new order, perfectly distinct from all that has ever preceded it: a government founded on the rights of man, resting not on authority, not on prejudice, not on superstition, but on reason. If it succeed, as fondly hoped by its founders, it will be the commencement of a new era in human affairs. All civilized governments must, in course of time, conform to its principles."*

Randolph's reply to Calhoun.

As soon as Calhoun sat down John Randolph rose to reply. "Make this a simple integral government," he said, "and I subscribe to the doctrines of the honorable gentleman." The principles advocated by Calhoun went, he maintained, to the "destruction of the state governments." Randolph anticipated the position which Calhoun was afterwards to take with so much effect: "On whom do your impost duties bear? Upon whom bears the duty on coarse woollens and linens and blankets, upon salt and all the necessaries of life? On poor men and on slaveholders."†

A part of the direct tax and certain internal taxes continued.

On March 4, a bill to continue for one year the direct tax to the amount of three millions passed the House by a vote of sixty-seven to sixty-three, and the next day it became a law. On April 19, a law was passed continuing certain in-

* Annals of Congress, 1815-1816, 830–840.

† Ibid., 840, 846.

ternal taxes which had been imposed in August, 1813. Four years before, it had taken more than a year of war to bring Congress to the point of laying these taxes!

On December 23, 1815, the Committee on Currency asked Dallas to submit a plan for a national bank; the next day he complied with the request. The committee embodied Dallas' ideas in a bill, and on January 8 it was reported by Calhoun, the chairman. The bank was to have a capital of thirty-five millions, of which seven millions was to be subscribed by the government in five per cent stock, the remainder—consisting of seven millions in specie and twenty-one millions in specie or public stocks of the United States—by private individuals. It was to be chartered for twenty years. It was to be governed by a board of directors, of whom five were to be appointed by the President from the stockholders, and twenty chosen by the stockholders. The subscriptions were to be paid in three instalments: five dollars per share in specie and twenty-five in stocks or specie at the time of subscribing; six months later, ten dollars in specie and twenty-five in stocks or specie; and twelve months later, the same. The public money was to be deposited in it unless the Secretary of the Treasury, for reasons to be explained to Congress, should otherwise direct. It was to pay the government a bonus of one and a half millions for its charter, and it was to transfer public money from place to place without charge.

Calhoun reports a bank bill.

Throughout the debate on the bill reference was frequently made to the spirit of speculation, which had been so powerfully promoted by the excessive issues of the state banks consequent upon the suspension of specie payments. Hopkinson, speaking of "the miserable litter of forty-two which came forth from the Pennsylvania legislature at one monstrous birth," said: "They crawled into a sickly existence and spread themselves over the land like so many vipers. . . . Speculation became an epidemic. . . . It followed the farmer into his field and he sold it, the mechanic into his shop and he pledged it. . . . Every man, from the highest to the lowest, was to become rich by the magic of those wonderful banks: the lamp of Aladdin was placed in every county, and each man, woman, and child expected to have the rubbing of it in their turn."* John Randolph spoke in the same strain: "The evil of the times was a spirit to live by any means but those of honest industry; . . . the system of Diddler in the farce, living any way and well, wearing an expensive coat and drinking the finest wines at anybody's expense."

Debate on the Bank Bill.

It was to strike a deadly blow at the root of these evils, to put an end to the chaos of the currency, to do all that the government could to compel the state banks to pay their notes in specie on demand, and thereby dimin-

* Annals of Congress, 1815–1816.

ish the fever of speculation, that the friends of the Bank advocated its incorporation. The bill became a law April 10. It passed the House by a vote of eighty to seventy-one, and the Senate by twenty-two to twelve. Thirty-three Republicans in the House and four in the Senate voted against it. In view of the powerful influences which were doubtless exerted by those who were connected with the numerous state banks, the wonder is that it passed at all.

The Bank Bill passed.

On April 30, a law was passed directing the Secretary of the Treasury to take immediate steps to secure the payment of taxes in specie or treasury notes or notes of the Bank of the United States, or in state-bank notes payable and paid on demand in coin, and directing that nothing else should be received after February 20, 1817. Apparently Congress had done everything possible to bring about the speedy resumption of specie payments. In reality, as will be seen, the law took from the Secretary of the Treasury the power to reject the notes of banks which merely pretended to redeem their notes in specie.

A law passed to restore specie payments.

On February 12, 1816, Dallas submitted a report on a protective tariff. That report marks the beginning of the third period in the legislation of this country which affected the development of manufactures. The first period includes the time from the adoption of the constitution until the laying of the embargo. During this period, the growth

Dallas' report on the tariff.

of manufactures was slow but steady. The primary object of the various tariffs imposed during this period was revenue. During the second period,—beginning with the laying of the embargo, and closing with the peace of Ghent,—manufactures were almost entirely protected from competition by the restrictive measures enacted, as a matter of fact, for an entirely different purpose, and by the war. The result was that establishments "for the manufacture of cotton goods, woollen cloths, iron, glass, pottery, and other articles sprang up with a mushroom growth."* In 1803 there were only four cotton-factories in the country; in 1808, fifteen; and in 1809, sixty-two were built and twenty-five more were in process of erection. The value of woollen manufactures is estimated to have increased from four millions in 1810 to fifteen millions in 1815.

The unique feature of Dallas' report was its recommendation of protection as a primary object. He divided the manufactures of the country into three classes: those which were well established and were capable of supplying the home demand; those which had been recently started and were not adequate to supply domestic needs, but which, through protection, might rapidly be made so; and those which were so slightly developed as to leave the country almost entirely dependent upon foreign sources.

* Taussig, Tariff History of the United States, 7.

With respect to the first class the choice lay between duties nearly prohibitive of imports for the sake of manufactures, and low duties for the sake of revenue. With characteristic directness Dallas left no doubt of his opinion as to the proper choice. "A wise government," he said, "will surely deem it better to sacrifice a portion of its revenue than to sacrifice those institutions which private enterprise and wealth have connected with public prosperity and independence." Regarding the manufactures of the second class Dallas thought it within the power of Congress to place them "within a very limited period" on the same footing as those of the first. The amount of duties, he said, "should be such as will enable the manufacturers to meet their competitors in the American market upon equal terms of profit and loss."* Upon this theory, Dallas stated in minute detail the amount of duty which he thought should be imposed.

The Tariff Bill reported by the Committee of Ways and Means.

The bill reported by the Committee of Ways and Means did not agree in all of its details with Dallas' recommendations, but it was undoubtedly drawn to reach the same ends as the Secretary of the Treasury had proposed. On March 21, the House took it up for debate. Although there was, as might have been expected, great difference of opinion as to details, the debate showed that a large majority was in favor of the general principle of the bill.

* State Papers, Finance, III., 90.

A final motion to postpone, made by Randolph, was lost by a vote of ninety-five to forty-seven.

The two arguments mainly relied on by the friends of the bill were that the young industries which had been developed since 1808 in consequence of the action of the government ought to be helped until they could stand alone, and that we ought not to be dependent on foreign nations for articles of common use and of indispensable necessity in time of war. The latter argument was especially emphasized by Calhoun. Nothing was said about the protection of American labor.

Arguments relied on by the friends of a protective tariff.

It was also evident that the general opinion was that there was no need of a vigorous and permanent protective policy. The law finally enacted provided for a duty of twenty-five per cent on cotton and woollen goods until 1819, when it was to be reduced to twenty per cent. The opinion entertained was that by 1819 the manufacture of those goods would have reached such a stage of development that the duty imposed could be more nearly a duty for revenue only. A specific duty of forty-five cents per hundredweight—about equivalent to twenty per cent—was laid on hammered bar iron, and one of $1.50 on rolled bar. The law was passed April 27.

No sentiment in favor of a permanent protective policy.

The same day, the President signed a bill providing for the appropriation of one million dollars yearly for eight years for the gradual increase of the navy.

On December 2, 1816, the Fourteenth Congress met for its second session, and the next day it listened to Madison's last annual message. He told Congress that the receipts of revenue during the current year were estimated at about forty-seven millions! The annual report of the Secretary of the Treasury, W. H. Crawford (Dallas had resigned in October, having made sure of the resumption of specie payments), told the story in detail. The receipts from customs duties during the year 1815 had amounted to more than thirty-six millions, and it was estimated that as large a sum would be received during 1816,— which estimate was based on the actual receipts for the first three quarters of the year. He repeated Dallas' recommendation to set aside ten millions yearly for the payment of the public debt.

Madison's last annual message.

The most suggestive thing in the report was its estimates for the military and naval service for 1817: six and a half millions for the former, and about four millions for the latter!

On February 17, Jeremiah Mason moved that the army be reduced to five thousand men. He reminded the Senate that the whole expenditure for the military service during the first twenty years of the government did not amount to twenty-nine millions. But to no purpose; he was beaten by a vote of twenty-four to eleven.

Mason's motion to reduce the peace establishment.

On March 1, a bill was passed imposing on foreign vessels the same restrictions and prohibitions which were imposed by foreign nations on Americans. The law was enacted in view of the regulation of the British government which prohibited trade between its citizens and the United States in American vessels.

On March 3, a bill was approved appropriating ten millions yearly to the payment of the public debt. The same day, the President approved a measure which afterwards played a notable part in American history—the Neutrality Act. It authorized collectors of customs to "seize and detain any vessel manifestly built for warlike purposes . . . when the number of men shipped on board . . . shall render it probable that such vessel is intended by the owner" to cruise against the commerce of a friendly nation. Spain was at war with the colonies of South America. The immediate object of the law was to prevent American citizens from taking part with them against Spain.

Neutrality Act.

On February 4, Calhoun made a speech in defence of a bill which he had introduced setting aside the bonus of the National Bank, a million and a half of dollars, and the government's share of its dividends,—which at eight per cent would amount to five hundred and sixty thousand a year for twenty years,—as a permanent fund for internal improvements. After pointing out the pecuniary

Calhoun's speech in defence of internal improvements.

advantages of a good system of roads and canals, he spoke of the political benefits to be expected from it. "No country," he said, "enjoying freedom ever occupied so great an extent of territory as this republic. . . . Let it not, however, be forgotten, let it for ever be kept in mind, that it exposes us to the greatest of all calamities next to the loss of liberty, and even to that in its consequences—*disunion*. We are great and rapidly growing. . . . This is our pride and our danger, our weakness and our strength. Let us then bind the republic together with a perfect system of roads and canals; let us conquer space." Speaking of the constitutional question, he said he was "no advocate for refined arguments on the constitution. The instrument was not intended as a thesis for the logician to exercise his ingenuity on."*

The bill passed the House by a vote of eighty-six to eighty-four. Thirty-three of the votes cast by the minority were given by New England Federalists, and forty-two by representatives of the slave states. It passed in the Senate by a vote of twenty to fifteen. On March 3, Madison returned the bill with his veto, on the ground that the power to construct roads and canals and improve the navigation of watercourses was not given to Congress by the constitution. The same day, the Fourteenth Con-

The bill for internal improvements passed, but vetoed by Madison.

* Annals of Congress, 1816–1817.

gress ceased to exist. It had done a notable work. It had set the republican vessel on a new tack. No longer conceived as divided into two parts, the intelligent and orderly few and the unintelligent and anarchical many, as Hamilton had supposed; or as split up into a number of independent and sovereign states, as the Republicans in their provincial days had supposed, the nation, at last conscious of itself and of its unity, was striving to realize for the first time in history the ideals of Democracy. Truly a noteworthy undertaking!

CHAPTER XXI.

ANDREW JACKSON IN FLORIDA.

DIPLOMATIC relations with Spain, which had been broken off in 1808, were resumed in 1815, and Don Louis de Onis was sent to this country as Spanish minister. On December 30, 1815, immediately after his presentation, he wrote a letter to Monroe, then Secretary of State, asking "that the affairs and frontiers of both nations" be restored to the same position in which they had been in 1808, and that therefore the part of West Florida of which the United States had taken possession be restored, and that the President should give orders to the collectors of customs not to admit into the ports of the United States vessels under the insurgent flag of Carthagena, nor those of the Mexican Congress, Buenos Ayres, nor of the other places in revolt against the king of Spain.*

Letter of the Spanish minister.

Monroe replied, urging the right of the United States to West Florida, and its well-founded claim to Texas; insisting upon the grievance of the United States against Spain—that a treaty made in 1802 at Madrid by the Spanish govern-

Monroe's reply.

* State Papers, Foreign Relations, IV., 422, 423.

ment, providing for an indemnity for injuries which had been received from Spain, was afterwards repudiated; and defending the principle upon which the Administration had been acting—that, in view of the repeated change of the ruling authorities in the revolted provinces, the President had thought it proper not to make the flag of any vessel the criterion of its being admitted into the ports of the United States.

As the result of considerable correspondence, the Spanish minister intimated that his government might be willing to cede its claim to territory on the eastern side of the Mississippi in exchange for territory on the western side, and expressed a wish that the negotiation be transferred to Madrid. Monroe accordingly (March 11, 1816) gave instructions to the United States minister at the court of Spain (G. W. Erving) to take up the matter with the Spanish government. Erving obeyed (August 26, 1816), urging,* in addition to old grievances, the aid given by the Spanish authorities to the Indians in Georgia, and to England during the War of 1812 by permitting the British government to send supplies through East Florida to the Indian tribes.†

Negotiation transferred to Spain.

Meanwhile a congressional caucus had met to nominate candidates for President and Vice-President. Al-

* State Papers, Foreign Relations, IV., 433.
†Ibid., 432.

though when Congress met in December, 1815, a majority of the Republican members of Congress, according to Jabez Hammond, a member of the House of Representatives from New York,* were undoubtedly in favor of William H. Crawford for President, that gentleman did not receive the nomination. Through the influence of the Administration, the meeting of the caucus was put off from time to time in order that votes might be secured for Monroe. Early in March, the Monroe men were ready. An anonymous notice invited Republican congressmen to meet in Representatives' Hall "to take into consideration the propriety of nominating persons as candidates for President and Vice-President." The wording of the notice was due to the growing opinion that such caucuses were an unwarrantable invasion of the rights of the people. In the existing state of political parties, a Republican nomination was equivalent to an election. The Republican congressmen, therefore, in nominating a candidate, were virtually electing a President. When the caucus met, Clay accordingly moved that it was not expedient to make any nominations for President and Vice-President. His motion was lost, and Monroe was nominated. He received eleven more votes than Crawford. Governor Tompkins of New York was nominated for Vice-President.

* Political History of New York, I., 412.

When the election was held, every state in the Union except Massachusetts, Connecticut, and Delaware voted for Monroe and Tompkins. Counting the vote of Indiana, which had adopted a constitution in June and had been admitted into the Union in December, 1816, Monroe received one hundred and eighty-three out of a total of two hundred and seventeen votes. The thirty-four Federalist votes were given to Rufus King.

Monroe's cabinet.

It was Monroe's intention to fill the four cabinet positions with representatives of the eastern, middle, southern, and western parts of the country. But Clay, whom Monroe had intended as the representative of the West, being unwilling to accept any cabinet position except that of Secretary of State, declined the portfolio of war, which Monroe had offered him. As finally constituted, the cabinet consisted of John Quincy Adams, Secretary of State; W. H. Crawford, Secretary of the Treasury; John C. Calhoun, Secretary of War; and W. B. Crowninshield, Secretary of the Navy. The Attorney-General was William Wirt of Virginia.

Monroe inclined to return to the customs of Washington and Adams. Following the example of Washington, soon after his inauguration he made an extended tour through the Eastern states, where leading Federalists vied with Republicans in doing him honor. When Josiah Quincy and Harrison Gray Otis united in paying their respects to a Republican President, two years after

the Hartford convention, there was reason for believing that the "era of good feeling" had come.*

Monroe returned to Washington in the latter part of the summer. Early in December, he was obliged to take up the controversy with Spain, which had become complicated by the introduction of new causes of difference between the two countries. In June, 1817, an expedition of filibusters, consisting of "Americans, Englishmen, Irishmen, Frenchmen — men of all nations" — seized Amelia Island on the northeast coast of Florida. They professed a wish to make Florida independent, but they were certainly engaged in smuggling goods and slaves.

Filibusters seize Amelia Island.

What was to be done with them? Amelia Island was Spanish territory. Should the Administration be controlled by that fact, or should it proceed upon the ground that Spain was unable to perform its duties as sovereign of Florida,—should the American government drive out the filibusters, and prevent them from breaking the laws of the United States? Adams was strongly in favor of taking possession of the island, and Monroe was finally convinced by his reasoning.† General Gaines, who commanded the American troops on the Florida frontiers,

General Gaines takes possession of it.

* Niles' Register, July 12, 1817.
† Memoirs of John Quincy Adams IV., 515.

was sent to the island late in 1817, and took possession of it without resistance from the insurgents.

The determination to break up the marauding party at Amelia Island was considered a decisive reason for despatching three commissioners, two of whom had been appointed in the preceding June, to South America with instructions to touch at such ports as they found convenient for their purposes, the most important of which was to obtain correct information on matters of interest to the United States.

Three commissioners sent to South America.

Before receiving the order to take possession of Amelia Island, General Gaines saw fit to make an attack on Fowltown, an Indian village situated in Georgia near the Florida line on land claimed both by the Seminole Indians and the United States. This attack, ex-Governor Mitchell of Georgia afterwards said, was, "I conceive, the cause of the Seminole War."

General Gaines makes an attack on Fowltown.

The first session of the Fifteenth Congress met December 1, 1817, and the House of Representatives by an almost unanimous vote immediately elected Clay Speaker. The next day, Monroe sent in his annual message. He told Congress that he had sent three commissioners to South America, and declared that, although he entertained a high sense of the benefits to be derived from a good system of roads and canals, it was a settled conviction of his mind that

Monroe on internal improvements.

the general government had no right to construct them. He therefore recommended the adoption of an amendment to the constitution conferring upon Congress the right to make internal improvements.

On December 17, Tucker of Virginia, chairman of the committee to which was referred that part of the message that related to roads and canals, made a report. The report considered the constitutional power of the general government to enact laws for the improvement and construction of roads and canals with the consent of the states. It called attention to the fact that in 1806 an act had been passed authorizing the construction of a road from Cumberland, Maryland, to Ohio upon obtaining consent of the states through which it was to run, and that other acts were passed in 1810, 1811, and 1815 confirming and enlarging it; that in 1806 and 1817 acts were passed authorizing the construction of roads from Nashville and Reynoldsburg, in Tennessee, to different points in the Mississippi territory without requiring the previous consent of Tennessee.

Report of a committee on internal improvements.

In the elaborate debate that followed the introduction of this report, the arguments for and against the power to improve and construct roads and canals were in substance only a restatement of the arguments of Hamilton and Jefferson in 1791 in relation to the Bank. The advocates of the report contended that the power to construct and

Debate on the report.

improve post-roads was implied in the power "to establish post-offices and post-roads," "to raise armies," and "to regulate commerce." The opponents of the report contended that such reasoning made "blank paper of the constitution" and went to the subversion of "the sovereignty of the states."

The result of the debate was the passage of a resolution, by a vote of ninety to seventy-five, declaring that Congress had power under the constitution "to appropriate money for the construction of post-roads, military and other roads, and of canals, and for the improvement of water-courses." But resolutions declaring that Congress had power to construct post and military roads, and roads and canals necessary for commerce between the states,—providing that private property were not taken without just compensation to the owners, — were lost by small majorities.* The difference between the resolution passed and the two resolutions defeated was clearly stated in an able speech by William Lowndes. The former only asserted the right of the government to appropriate money for the construction of roads and canals where the necessary rights of soil were obtained by contract with its owners; the latter, the "high power which a government only could exert of taking property for public use, and making the canals or roads which the

The House of Representatives resolves that Congress has power to appropriate money for internal improvements.

* Annals of Congress, 1817-1818, 1386, 1389.

public necessities might require, without the consent of the owners of the soil upon paying to them a just indemnity."*

Another question upon which an emphatic difference of opinion appeared between the executive and many members of Congress, headed by the Speaker, was the course which the Administration had taken with reference to the colonies of Spain in South America. The parallel between those colonies in 1817 and France in 1793 is sufficiently close to enable us to understand the nature of the influence which the attempt of the former to throw off the yoke of Spain exerted upon American politics. The people of France had then struggled and the Spanish colonies were now struggling for the right of self-government. As then, so now there was a bloody collision with the forces of tradition, for the democracy had become too strong to be held in check by peaceable means. As, even before the excesses of the Reign of Terror and the armed propagandism of liberty, conservatives like Hamilton were more alive to the evils that might arise from license than to the good that might result from liberty, so it was natural for men of a similar temper in 1817 to raise the question whether the condition of the people in the Spanish colonies under the rule of Spain was not as desirable as it would be if they succeeded in

Parallel between Spanish colonies in 1817 and France in 1793.

* Annals of Congress, 1817–1818, 1235.

establishing independent governments. And as, in the former period, Democrats like Jefferson and Gallatin were enthusiastic believers in the French Revolution, so Democrats like Clay in 1817 gave their fervid sympathy to the struggling colonies of Spain.

What men of the temper of Hamilton (there were still a few of them in the country) thought of the uprising of the Spanish colonists is a matter of no importance to history. They were out of touch with their time. But between the type of mind of a Hamilton and that of a Jefferson there are infinite gradations. And though the growth of democratic ideas in the United States more and more excluded from power those who did not believe or profess to believe in the ideas of Jefferson, yet there were degrees in the fervor with which men in office regarded liberty as the panacea for all political ills. And the more they inclined to regard liberty as the supreme political good, the more they sympathized with the colonies of Spain and the more they inclined to disregard the restraints of international law in respect to them. But the more they began to regard liberty as a means to an end, the less sure they were that the success of the Spanish colonies would be a gain either to them or to civilization, and the more desirous not to violate international law in their behalf.

Monroe the hot-headed young minister to France in 1795, who was willing to forego the just claims of the United States on the French Republic if the cause

of France and of liberty might thereby be promoted, was not the Monroe who became President in 1817. Monroe the President was doubtless a firm believer in republican government, in fundamental matters a loyal disciple of Jefferson. But in the twenty-one years since Washington had recalled him in disgrace from France, he had learned that good government is not a city that can be taken by storm; that a people may change the form of their government as a man may change his clothes, but that if they have submitted for a long time to bad government of any description, it is at least open to doubt whether they have capacity for intelligent self-rule.

Character of Monroe.

His Secretary of State had never shared the enthusiasm of the Republicans. By temperament and training a Federalist, John Quincy Adams had only left his party when its apologies for the attack upon the "Chesapeake" showed that its patriotism was not robust enough to overcome its sympathy with the Tory government of England. But his fervid patriotism was combined with a suspicious and distrustful temper which was the very antithesis of the optimism which was so marked a characteristic of the republicanism of Clay and Jefferson. To these traits of Adams add a chivalrous sense of public duty, a hearty contempt for everything that savored of demagogism, a lofty ambition,—at that time especially concentrated on

John Quincy Adams.

making a treaty with Spain for the annexation of Florida, which might be frustrated by hasty action with reference to the Spanish insurgent colonies,—and it is easy to predict the policy which he would be likely to advise with reference to the revolting colonies of Spain. Accordingly he explicitly gave it as his opinion at a cabinet meeting held October 30 that it was not expedient for the President to acknowledge the independence of the United Provinces of Rio de la Plata.

Clay's resolution.

On March 25, 1818, Clay delivered a speech in support of a resolution to make an appropriation for the salary of a minister to the United Provinces of Rio de la Plata, in which he disclosed his whole policy with reference to the insurgent colonies. "We behold in the insurgent colonies," he said, "the glorious spectacle of eighteen millions of people struggling to be free. . . . But it is sometimes said that they are too ignorant and too superstitious to admit of the existence of a free government. . . . He denied the alleged fact of ignorance; he denied the inference from that fact, if it were true, that they lacked capacity for free government. . . . It was the doctrine of thrones that man was too ignorant to govern himself. . . . It was to arraign the dispositions of Providence Himself to suppose that He had created beings incapable of governing themselves and to be governed by kings." He contended that self-government was the natural government of man. He was

in favor of a "strict and genuine neutrality. . . . This required that we should recognize any established government in South America. . . . If the royal belligerent were represented at our government, the republican belligerent should be represented also." *

The debate that followed showed the fallacy of much of his reasoning—that a genuine neutrality, for example, required us to receive a minister from the insurgents if we received one from Spain, and that all people are capable of self-government.

But it was not, perhaps, the fallacy of his reasoning so much as the contemptuous allusions to Monroe and Adams which he saw fit to make that caused his resolution to be rejected by a very large majority. When the outcome of the struggle between Spain and its colonies was a matter of doubt, when the premature recognition of their independence would certainly break off the negotiations with the Spanish government, and might involve us in war with it, men felt that severe criticism of the conservative course of the Administration was out of place—and the more so as they suspected that the animus of the resolution was Clay's displeasure at not being made Secretary of State. Apart from that, it was at least an open question whether his resolution was not an arrogation by the House of Representatives of a right which

Clay's resolution rejected.

* Annals of Congress, 1817–1818, 1474, 1500.

belonged to the executive — the right of recognizing a foreign government.*

The first bill to receive the approval of the President during this session of Congress abolished the internal duties, as the revenue from customs duties, amounting to about twenty millions, made them unnecessary. Laws were also passed considerably raising the duties on iron and postponing the reduction from twenty-five to twenty per cent on woollens, whereupon (April 20, 1818) Congress adjourned.

Internal taxes abolished; duties on iron raised and reduction of those on woollens postponed.

During the last days of the session, Andrew Jackson was waging war against the Seminoles in a fashion which first put the Administration in a dilemma, and then gave a new occasion for a difference between it and members of Congress. To appreciate the significance of this division of sentiment, we must trace the history of this remarkable man from the time he began his career in the War of 1812. When war was declared, he was major-general of militia, and he at once offered his services with those of twenty-five hundred volunteers. Late in 1812, he war ordered to march to New Orleans. When he was on the point of starting, he wrote to the Secretary of War a characteristic letter: he had no constitutional scruples; he was ready, he said, if ordered, "to plant the American

Andrew Jackson's career in the War of 1812.

* Memoirs of John Quincy Adams, II., 206.

eagle on the walls of Mobile, Pensacola, and St. Augustine."

In August, 1813, about five hundred and fifty persons were massacred by the Creeks in Fort Mims, and Jackson rose from a sick-bed to lead a body of troops against the Indians. In a campaign of seven months, with militia who were kept from open mutiny only by his combined tact and iron resolution, he cleared the country of the Indians, driving into Florida those who had not surrendered.

This campaign laid the foundation of his reputation. Armstrong made him a major-general in the army of the United States, and gave him command of the Department of the South.

In August, 1814, he was in Mobile. When the English forces took position in Pensacola, Jackson wrote to Washington for permission to attack it. He had the disregard of conventionalities characteristic of men of strong will. If Spain could not or would not make England respect its sovereignty, why should the United States respect it? Why should he not attack the English where he found them, whether in the territory of Spain or out of it? Without waiting for permission, he stormed the city and captured it. In January, 1815, as every American knows, with an army composed chiefly of militia he overwhelmed the veterans of Wellington in the battle of New Orleans, only six of his men being killed and seven wounded, while the English loss in

killed, wounded, and prisoners exceeded twenty-six hundred men.

The effect of that battle was the development of a factor which had more to do with the political history of the United States than any other result of the war: the almost irresistible popularity of Andrew Jackson. On the very heels of the disloyal Hartford convention, when the Federalists in Congress were paralyzing every effort of the Administration to raise money and men; when Federalist editors in every Northern city were moralizing with hardly concealed satisfaction on the results of the alliance between Democracy and Napoleon; when threats of the dissolution of the Union unless the government made peace were heard on every hand; when the country was waiting with drawn breath for news from New Orleans, hardly daring to hope that the city would be able to escape the fate of Washington, came the news of the "almost incredible victory." That victory changed the course of American history.

Jackson's popularity.

It was Monroe's original intention to entrust the prosecution of the war against the Seminoles to General Gaines. Anxious to bring the negotiation with Spain to a speedy conclusion, Monroe at first ordered Gaines not to pursue the Seminoles into Florida. Gaines was afterwards authorized to cross the Florida line, provided the Seminoles could not be got at in any other way. But he was

Orders of the Administration that Spanish posts be left unmolested.

strictly enjoined not to molest a Spanish post. Jackson saw these orders and disapproved of them. He believed in attacking the Indians wherever they could be found; moreover he had a very definite opinion as to the proper course to be pursued towards Spain. Negotiations protracted to such an extent as those with Spain had been were not to his taste. Five days before Calhoun's order to take the field against the Seminoles reached him, he wrote Monroe a letter in which he said that, simultaneously with the taking possession of Amelia Island, "the whole of East Florida" ought to be seized, "and held as an indemnity for the outrages of Spain upon the property of our citizens. . . . Let it be signified to me through any channel, say Mr. J. Rhea,"—he was a member of Congress from Tennessee,—"that the possession of the Floridas would be desirable to the United States, and in sixty days it shall be accomplished."*

The Rhea letter.

Monroe was sick when the letter reached him, and he did not read it until the Seminole War was over.†

Jackson, however, declared that Rhea answered the letter and told him that the President approved its suggestions. He evidently believed that the Administration

* Benton's Thirty Years' View, I., 170.

† Monroe to Calhoun, May 19, 1831. Parton's Life of Jackson, II., 435. Cf. Benton's Thirty Years' View, I., 170, and Schouler's Historical Briefs, 97, for the history of this letter; also Memoirs of J. Q. Adams, VIII., 404.

favored his plan to conquer Florida. In fact, it would have been difficult for him not to believe it. Whatever he believed seemed so self-evident that he could not understand how any one could honestly believe anything else. It did not, therefore, require much evidence to convince him that the Administration wished him to take possession of East Florida.

Jackson's Florida campaign.

Calhoun's order to Jackson to take command in the Southeast authorized him to call on the executives of the adjacent states for militia if he thought the number of his troops too small to beat the enemy. As the governor of Tennessee was absent from Nashville when the order reached him, he proceeded to raise troops on his own responsibility. In March, 1818, he was on the Florida frontier. He wrote the Spanish commander of Pensacola that if any attempt were made to resist the passage of his boats (on which he was sending provisions to Fort Scott by the Appalachicola) he would consider it an act of hostility to the United States. Having heard that some Indians had fled to St. Marks, he wrote to the Spanish commander of that fort that he came "not as the enemy but as the friend of Spain." But "to prevent the recurrence of so gross a violation of neutrality, and to exclude our savage enemies from so strong a hold as St. Marks, I deem it expedient to garrison that fortress with American troops until the close of the present war." The Spaniard replied that the fort of St. Marks had not given aid

of any kind to the Indians, and that he had no authority to give up the fort. Jackson immediately took possession of it. He found in the fort a Scotchman by the name of Arbuthnot. "Unable satisfactorily to explain the object of his visiting this country," Jackson wrote, "and there being a combination of circumstances to justify a suspicion that his views were not honest, he was ordered into close confinement." The same day, two Indian chiefs were captured, and, the next day, Jackson ordered them to be hanged. As rapidly as possible he pushed on to the headquarters of the Seminole chief on the Suwanee River. He burned the town, and captured an Englishman named Ambrister whom he found in the neighborhood. The Englishman was sent to St. Marks, where a court-martial was convened to try him and Arbuthnot.

Arbuthnot was tried on three charges: inciting the Indians to make war against the United States; acting as a spy, and giving aid and comfort to the enemy; and inciting the Indians to murder two Americans. In the absence of any sufficient evidence, he was found guilty on the first two charges and condemned to be hanged.

Arbuthnot and Ambrister tried and executed.

Ambrister was tried on the charge of inciting the Indians to levy war. He threw himself on the mercy of the court. The court found him guilty and sentenced him to be shot. The sentence was reconsidered, and he was condemned to fifty lashes and to confinement at hard labor for a year.

The trial ended late in the evening of April 28, 1818. The next day Jackson issued an order approving of the sentence in the case of Arbuthnot, and of the first sentence in the case of Ambrister, and directing that both men be executed.

On his homeward march, he heard that some Indians had taken refuge in Pensacola. He set out for it immediately and captured it, leaving in it a garrison of American troops. His explanation was, "I could adopt no other way to put an end to the war but by possessing myself of the strongholds that were a refuge to the enemy and afforded them the means of offence. The officers of Spain having by their acts identified themselves with our enemy became such, and, by the law of nations, subjected themselves to be treated as such."

Pensacola captured.

He had put an end to the Seminole War, but, as Niles said, he had placed "the government in a most delicate situation." When the news of his exploits in Florida reached Spain, Don José Pizarro, the Spanish Secretary of Foreign Affairs, sent a despatch to Don de Onis declaring that Jackson had "desolated with fire and sword everything upon Spanish territory," had taken Spanish fortresses by force, and had executed upon Spanish ground "subjects of powers in friendship with his Majesty." The King had accordingly ordered de Onis to announce to the American government that pending negotiations must be

Effect of Jackson's conduct on Spain.

broken off "till the government of the United States has given orders to have things placed on the same footing that they were on before the invasion, and to inflict an appropriate punishment on the author of so many disorders."

Truly the Administration was in a dilemma: saying nothing of foreign complications, if it approved Jackson's conduct it incurred the double responsibility of making war on Spain and on the constitution, since the constitution gives to Congress alone the right to declare war. If it disavowed him, it must encounter the shock of his popularity, and give the impression of truckling to Spain and England. Jackson was already beginning to be idolized by a large part of the aggressive, energetic, resolute American democracy. This democracy did not trouble itself about obscure points of international law, although there were questions of an international bearing upon which it had strong convictions. It was sure that West Florida belonged to the United States, and that the government had a right to take possession of East Florida as an offset to the claims that Spain refused to settle; that Ambrister and Arbuthnot probably got what they deserved, and that in any event the arbitrary killing of an Englishman or two was a trifling matter in comparison with the killing of the men on the "Chesapeake" and the arbitrary impressment of thousands of American citizens. What

Dilemma of the Administration.

Popular opinion of Spain.

would this democracy say if Andrew Jackson were punished for invading territory that by right belonged to the United States, and for paying England back with a little of her own coin?

When the cabinet met, July 15, 1818, to deliberate on Jackson's conduct in Florida, every member of it except Adams was of the opinion that Jackson had acted contrary to his instructions; that he had committed war against Spain; and that if he were not disavowed by the Administration, the Administration would be abandoned by the country. Adams contended that the character of Jackson's measures was to be judged by his intention, which was not hostility to Spain, but the termination of the Indian war. Moreover, if the matter was in doubt, it was better to err on the side of strength than of weakness, on the side of our own officers than on the side of our enemies.*

Discussion of Jackson's conduct by the cabinet.

The decision finally reached by the cabinet was utterly illogical. To avoid antagonizing Jackson's popularity, the Administration decided that he should be justified and commended. But the Administration was equally opposed to becoming involved in war with Spain, and to exposing itself to the charge of having violated the constitution. Jackson's capture of Pensacola should therefore be de-

Decision of the cabinet.

* Memoirs of John Quincy Adams, IV., 110, 114.

cleared to be his act, which, though just and necessary, could not be authorized by the government. Pensacola should be immediately restored, and St. Marks as soon as a Spanish force of at least two hundred and fifty men should arrive to take possession of it. A just and necessary act could not be constitutionally authorized! An agent of the government could earn its approbation by doing what it had no right to authorize him to do!

In accordance with the decision, Calhoun, as Secretary of War, wrote to Jackson commending his conduct. Jackson therefore inferred that Calhoun had defended his action. He supposed that Crawford, whom he hated, had criticised it. Monroe took upon himself the task of reconciling Jackson to the surrender of the Spanish forts. In a letter mingling direct compliment with indirect criticism, Monroe gently told him that he had gone beyond his instructions and acted on his own responsibility, and that, while the United States had the right by the law of nations to pursue its enemies into Florida, the President had no right to order an attack on a Spanish fort or to refuse to evacuate forts which had been captured, since either of these acts would amount to a declaration of war.

Monroe's letter to Jackson.

Jackson's reply was characteristic: He had not gone beyond his instructions. He would never shrink from assuming responsibility when the public good could thereby be promoted. His orders were "to adopt the necessary meas-

Jackson's reply.

ures to terminate the conflict," no restriction being imposed as to means and limitations. Such an order left him entire discretion as to means. *All the acts* which he performed in obedience to it were the acts of the government, and on no ground could he be criticised except on the ground of deficiency in judgment and skill. But he did not say that Rhea had written him that the President approved of his taking possession of Florida.

Adams' defence of Jackson.

The able despatch to Erving, our minister to Spain, in which Adams attempted to vindicate the conduct of Jackson—to show that the capture of the Spanish posts was a mere "incident in the prosecution of the war against the Indians, . . . that the two Englishmen executed" by Jackson's order "were not only identified with the savages with whom they were carrying on the war against the United States, but that one of them was the prime mover of the war, . . . and the other the instrument of war against Spain as well as of the United States"—has the credit of having caused Spain to recede from her demand for the punishment of Jackson. But if Spain was influenced by Adams' despatch, it must have been due to the temper in which it was written, and to the threat with which it closed, rather than to its argument. That threat was couched in the following language: "The duty of this government to protect the persons and property of our fellow citizens on the borders of the United States is imperative; it must be discharged. And if, after all the

warnings that Spain has had, . . . the necessities of self-defence should again compel the United States to take possession of the Spanish forts in Florida, we declare with the frankness and candor that becomes us that another unconditional restoration of them must not be expected. You are authorized to communicate the whole of this despatch to the Spanish government."*

It was probably, however, neither Adams' argument nor his threat, but the situation—a situation laid bare by Jackson's campaign in Florida—that caused Spain to recede. That campaign had shown to all the world that Spain's sovereignty in Florida was only a shadow. Every one realized that throughout the whole of Florida the government of Spain was scarcely felt, and that the government of the United States would not continue indefinitely to permit hostile Indians and fugitive negroes to make it an asylum. And this is probably the reason why Spain made the restoration of the Spanish posts a pretext for receding from its demand for Jackson's punishment.

It is reported that the last words of Arbuthnot were: "My country will avenge my death." How near England came to attempting to fulfil his prediction we are told in a vivid way by Richard Rush, who was then minister from the United States at London. The excitement was intense. Papers of both parties clamored for

* State Papers, IV., 539, 545.

war. Castlereagh, the English Secretary of State, afterwards told Rush: "Had the English cabinet felt and acted otherwise than it did, such was the temper of Parliament and the feeling of the country, he believed that war might have been produced by holding up a finger."*

But the cabinet, upon reading the proceedings of the court-martial in the case of Arbuthnot and Ambrister, decided that the conduct of these men had been unjustifiable and did not call for the interference of England. When, therefore, Congress met in November, 1818, the decision of the Administration with respect to Jackson was vindicated by its results so far as Spain and England were concerned. How would it fare at the hands of Congress?

England's decision with reference to Arbuthnot and Ambrister.

On January 18, 1819, a debate on Jackson's Florida exploits began in the House of Representatives. The subject of the debate was four resolutions disapproving of the executions of Arbuthnot and Ambrister, and of the seizure of St. Marks and Pensacola, and instructing the military committee to report two bills, one prohibiting the execution of any captive without the approval of the President, the other prohibiting the entry of United States troops into any foreign territory without the previous authorization of Congress, except in the case of a fresh pursuit of a defeated enemy.

The debate on Jackson's conduct in Florida.

* Residence at the Court of London, 152.

Had it not been for the peculiar character of Andrew Jackson, that debate, inasmuch as it terminated in no legislation, would have had no appreciable effect and would deserve no more than a passing mention in a history of American politics. It was Jackson's character that lifted it out of the region where things happen and leave no discernible trace behind, and transformed it into one of the potent forces of American history.

The primary object of the debate was to secure a vote of censure of the Administration. The proposed bills were merely a pretext for bringing about this result. What gave the debate its importance in history was that Henry Clay hoped by means of it to advance his political fortunes by dealing the Administration a blow through Jackson. He had not learned that Jackson was not a safe man to strike. Object of the debate.

Clay denounced properly enough the execution of the Indian chiefs. "How did they come into our possession? By means of deception, by hoisting foreign colors on the staff from which the stars and stripes should alone have floated. Thus ensnared, the Indians were taken on shore and, without ceremony and without delay, were hanged. . . . It was the first instance in our history in which retaliation by executing Indian captives had ever been deliberately practised."

As to Arbuthnot and Ambrister, "it was possible, indeed, that a critical examination of the evidence would show, particularly in the case of Arbuthnot, that the whole amount of his crime consisted in his trading . . . with the Seminole Indians, and espousing their interests in regard to the provisions of the treaty of Ghent." But, waiving that question, he contended that their execution was without justification. He showed the absurdity of Jackson's "established principle of the law of nations," "that any individual of a nation making war against the citizens of another nation, they being at peace, forfeits his allegiance and becomes an outlaw and a pirate."* Such a principle, he declared, would make "outlaws and pirates, and therefore liable to execution, of all the foreign citizens serving in the American army." He pointed out the arbitrary character of Jackson's conduct in reversing the sentence of the court in the case of Ambrister. Nevertheless "he most cheerfully and entirely acquitted General Jackson of any intention to violate the laws of the country or the obligations of humanity."

Jackson, Clay said, had justified his capture of the Spanish post of St. Marks on the ground that he had heard that the Indians were going to take it! Jackson had had even less excuse for the capture of Pensacola. He had seized the post after he had written officially to Cal-

* The clause is Jackson's language.

houn that the war was over, because he received a letter from the Spanish commander there "intimating his surprise at the invasion of the Spanish territory and the acts of hostility performed by the American army, and his determination, if persisted in, to employ force to repel them"!

The effect of Clay's speech upon Andrew Jackson can be imagined. "The hypocrisy and baseness of Clay," he wrote a few days later, "in pretending friendship for me, and endeavoring to crush the executive through me, makes me despise the villain." Clay had cause to learn how much the enmity of Jackson meant.

Effect of Clay's speech on Jackson.

When the resolutions came to a vote the House by a vote of almost two to one indorsed the Florida campaign in every particular. Jackson did not fare so well in the Senate. By a vote of thirty-one to three the Senate ordered a report to be printed which decided against him on every point from the raising of troops on his own responsibility in Tennessee to the capture of Pensacola. The report made Jackson very angry. Abner Lacock wrote John Binns: "General Jackson is still here and raves like a madman. He has sworn most bitterly he would cut off the ears of every member of the committee who reported against his conduct." *

Jackson indorsed by the House, but not by the Senate.

* Autobiography of John Binns, 258.

On the same day (February 24, 1819) that the vote was taken on the report of the Senate, that body unanimously confirmed a treaty between the United States and Spain. The treaty ceded to the United States East and West Florida, and fixed the western boundary of the Louisiana territory. This extended from the Gulf of Mexico at the mouth of the river Sabine northward along the western bank of the river to the thirty-second parallel of latitude, thence due north to the Red River, along that river to the twenty-third parallel of longitude from Washington, where it crossed the river and went due north to the Arkansas, thence following the course of the southern bank of that river to its source, and thence to the Pacific Ocean. The treaty annulled the convention of 1802, the ratification of which had been exchanged in the preceding September. Both parties renounced all claims for injuries which might have been made up to the time of the signing of the treaty, and the United States agreed to satisfy the claims which American citizens had against Spain to an amount not exceeding five millions of dollars.*

Treaty with Spain.

* The treaty was not finally ratified by both parties until nearly two years later, in consequence of an attempt on the part of the King of Spain to deprive the cession of Florida of a large part of its value by huge land-grants to favorite subjects. The failure of Spain to ratify it within the six months provided by the treaty for its own ratification gave the Senate an opportunity to reconsider its ratification. Before the treaty was again submitted to the Senate, the King of Spain had formally nullified the land-grants.

During this session, a convention between Great Britain and the United States was ratified, by the terms of which the forty-ninth parallel of north latitude was to be the boundary between the United States and British America from the Lake of the Woods to the Rocky Mountains. The territory west of the Rocky Mountains was to remain for ten years in the joint possession of both parties. Convention with England.

Before the close of the session, a new question began to be agitated in connection with a bill for admitting Missouri as a state. A motion to exclude slavery from Missouri revealed an amount of feeling on that subject which no one had suspected. Slaveholders and non-slaveholders arrayed themselves in violent opposition to each other, without regard to their affiliation on other questions, in a way that boded no good to the Union. But before discussing the debate and its outcome, let us glance at the history of the slavery question in the United States since the adoption of the constitution.

CHAPTER XXII.

SLAVERY.

THE slavery clauses were introduced into the constitution because the antislavery sentiment, though strong and general, was not universal. The proslavery sentiment was particularly strong in South Carolina and Georgia. In the other Southern states, especially North Carolina, it was probably strong enough to have defeated the constitution if the slavery clauses had been left out of it, although in most of these states slavery was looked upon as an evil destined in the near future to pass away.

The slavery clauses in the constitution.

In the debate on the adoption of the constitution in the legislature of South Carolina, a clear statement of the basis of the proslavery sentiment was made. Lowndes said: "Without negroes this state would degenerate into one of the most contemptible in the Union."

The history of slavery in the United States up to 1789 illustrates in a general way the influence which self-interest was exerting on the opinions of men. Alexander Johnston sums up that history as follows: "From the beginning, the masterful white race had found in the colder North that it was easier to do work for itself than to compel work from the black race, and in the warmer South that

Slavery in the United States up to 1789.

it was easier to compel work from the black race than to do the work for itself." * Accordingly, while the number of slaves in the North only increased from 10,900 in 1715 to 40,370 in 1790, the number in the South in the same period increased from 47,950 to 657,527. Still more significant is the fact that in the North there had been a decrease of about 6,000 since 1775, while in the South in the same period there had been an increase of more than 200,000. With slavery decreasing in the North, there is no wonder that the antislavery sentiment was growing.

This antislavery sentiment is by no means to be attributed to philanthropic regard for the negro, or to a feeling of what was due to him as a human being. On the contrary, it is hardly to be doubted that it was prompted by the same motive of self-interest which led South Carolina and Georgia to insist upon the slavery clauses of the constitution. When Pickering and a few discontented New-Englanders were discussing a Northern Confederacy in 1804, and when, in consequence of the embargo and of the war, projects of disunion were discussed in New England in 1809 and 1812–1815, the inequality in the political power of the two sections which resulted from the slave representation in the Southern states always figured as a grievance of the first importance. The

Self-interest inclined the South to favor slavery, and the North to oppose it.

* Lalor's Cyclopedia, article on Slavery.

more, then, self-interest committed the South to slavery, the more it committed the North to its abolition.

Opposition of interests between the North and the South.

The differences as to the foreign policy of the United States which prevailed between Southern Republicans and Northern Federalists from 1793 until 1815 were not accidental. The North, devoted to commerce with England, could not look favorably on a policy which interrupted that commerce. And though the restrictive measures and the war went far towards destroying it, the result was the manifestation of the difference of interests between the two sections in a new form. The growth of industries in New England bade fair to make it a manufacturing instead of a commercial section. And the legislation which would promote its manufacturing interests would not promote the interests of the agricultural South.

From still another point of view, therefore, it is clear that the more self-interest should incline the South in favor of slavery, the more it would incline the North to oppose it. Whoever, then, in 1789 could have foreseen the economic future of the United States, could have predicted in its broad outlines its political development. If the progress of invention should make slavery as profitable for the entire South as it already was for a part of it, the entire South would demand that the policy of the country should be subordinated to the interests of slavery. And on that very ground the North would resist the

demand; a perception of its own selfish interests would combine with its dislike of slavery on moral grounds to make it oppose a proslavery policy.

Upon the same supposition, it would not have been impossible to foresee a marked difference in the vigor with which the two sections would press their demands. In a society where slavery flourishes the slaveholders are sure to be the aristocratic class. The South was no exception to this rule. If slavery, then, were to become of the same economic importance to the entire South that it was in 1789 to a part of it, the representatives of the South, members as they would be of the slaveholding aristocracy, would press the demands of slavery with all the vigor and intensity natural to men when they are not only speaking for others, but for themselves. The slaveholding interest thus would constitute a great trust, and every Southern congressman would be a member of it. Politically, the South would be absolutely homogeneous so far as the interests of slavery were concerned.

The tendency in the South towards political homogeneousness.

But such homogeneousness could not be expected in the North. The lack of community of interest would make it impossible. The nature of the case, then, on the supposition that the progress of invention should make slavery of the first importance to the entire South, would lead us to expect to find a compact, homogeneous body of Southern repre-

Heterogeneousness of the North.

sentatives (when the interests of slavery were involved) arrayed against a straggling, heterogeneous body of Northern representatives.

In a conflict between two such forces the issue could not be in doubt. Not till self-interest and the developing moral sense of the North united its representatives in opposition to all pro-slavery measures could victory fail to remain with the South. And when that day came what would be the result? Peaceable secession, the withdrawal of the weaker part from the stronger, or a war waged by the stronger to prevent it?

The result.

The question of questions, then, in 1789, was, would the progress of inventions make slavery the controlling interest of the South? That question was answered in 1793. Eli Whitney changed the course of history by inventing the cotton-gin, which enabled a slave to remove the seeds from one thousand pounds of cotton in a day, when before he was able to remove them from only five or six pounds. The effect was almost magical. The export of cotton rose from 138,300 pounds in 1792 to 487,600 in 1793, to 1,601,700 in 1794, to 6,276,300 in 1795, and to 38,118,000 in 1804. The slave states at once became the cotton-fields of the world.

Influence of the cotton-gin.

The two most important events in the history of slavery in this country from 1789 up to the Missouri

Compromise are the passage of the Fugitive-slave Law in 1793 and the law forbidding the importation of slaves in 1808.

By virtue of the former of these laws a claimant, his agent or attorney, was empowered to seize an alleged fugitive and take him before a United States circuit or district judge within the state where the arrest was made, or before any local magistrate in the county in which the negro was seized. Upon the unsupported oral testimony of the claimant, or upon the bare affidavit taken before a magistrate in the state from which the captive was alleged to have escaped, the slaveholder secured a warrant which enabled him to take the negro South as his slave. It passed the Senate without a division, and the House by a vote of forty-eight to seven, and received the approval of Washington. Fugitive-slave Law.

The kidnapping of free negroes at once became such an outrage that in 1794 the legislature of Delaware passed a law to prevent the enslavement of free negroes, and asked Congress to enact a similar law. The matter was referred to a committee in the House of Representatives in April, 1796, and in January, 1797, the chairman of the committee reported that it was not expedient to interfere with the existing laws on that subject. Kidnapping of free negroes.

A recommendation by Jefferson in 1806 to take action prohibiting the slave-trade was referred to a committee of seven, of which Peter Early of Georgia was chairman, the other six members being equally divided between the North and the South. In a few days, Early reported a bill which declared the importation of slaves unlawful, imposed a fine on the importer, and subjected his ship and cargo to forfeiture. When the bill came up for debate, it soon appeared that Northern and Southern members agreed in professing a desire to prohibit the slave-trade. The questions at issue between them were as to the penalty to be imposed for a violation of the law, and the disposition to be made of the negroes who might be imported. The bill prescribed rules for forfeiture and provided for the sale of the cargo of a forfeited vessel for the benefit of the United States government. As the cargo of a slave-ship consisted of negroes, Early's bill made the United States government the owner of every negro thenceforth imported into the country, and required it to sell them to the highest bidder.

Bill introduced forbidding the importation of slaves.

Sloan of Pennsylvania at once moved to amend the bill by providing that the forfeited negroes should be entitled to their freedom. Early said that the vote on that amendment would determine whether the House would or would not agree to pass a bill on this subject which would be effectual. He admitted that his bill unamended would

Sloan's amendment.

require imported negroes to be sold as slaves. "This is a melancholy truth; melancholy because without such a provision we can pass no law on the subject that will be effectual." Why is it that debates "having the most remote bearing on giving freedom to the Africans in the bosom of our country excite the deepest sensibility in the breasts of those where slavery exists? . . . It is because those who, from experience, know the extent of the evil believe that the most formidable aspect in which it can present itself is by making these people free among them. Yes, sir; though slavery is an evil regretted by every man in the country, to have among us in any considerable quantity persons of this description is an evil far greater than slavery itself." If, therefore, Sloan's amendment passed, the law would be a dead letter, because no one would inform, since "to inform will be to lead to an evil which will be deemed greater than the offence of which information is given, because it will be opposed to the principles of self-preservation and the love of family. . . . Wherever people of color, in considerable numbers, are found in a state of freedom, they are considered as instruments of murder, theft, and conflagration." If the government turned loose "a single cargo of persons of color, what do gentlemen suppose would become of them? We must either get rid of them, or they of us. I will speak out; it is not my practice to be mealy-mouthed on a subject of

importance. Not one of them would be left alive in a year."

Dilemma of the Northern members.

The Northern members were in a dilemma. The negroes imported in violation of the law must either be freed or sold as slaves. But to make a law providing for their freedom would be equivalent to passing no law at all, since Southern men would not inform against a slave-dealer if his cargo of negroes was to be freed. "Give up the idea of forfeiture," said David R. Williams of South Carolina, "and I challenge the gentleman to invent fines, penalties, or punishments of any sort sufficient to restrain the slave-trade. Who would break the law? They are the people of Rhode Island who are concerned in this business. The gentleman over the way shakes his head; he acknowledges the truth of my remarks on his countrymen. You have got into a great difficulty. You are completely hobbled. It is so bad that you cannot go on, and you must stick where you are. . . . The gentlemen from the South understand this subject. They can tell you how this business must be done."*

Smilie of Pennsylvania moved to make the importation of negroes a felony punishable by death. Early told him his law would be worth nothing. "I should like to know how the fear of death will operate on a man who is bound with his slaves to a country where he knows

*Annals of Congress, 1806–1807, 183.

the punishment will not be enforced. . . . No man will dare inform. It would cost him more than his life is worth. . . . We have been asked what punishment can be too severe for so atrocious a crime. . . . It will be sufficient to answer this question by a practical view of the subject. How do people consider the transaction? Do they consider it such an outrageous crime? They do not. . . . I will tell the truth. A large majority of people in the Southern states do not consider slavery as even an evil."

Stanton of Rhode Island wanted "the law made as strong as possible to prevent this trade in future; but I cannot believe that a man ought to be hung for *only stealing a negro.*"

In the course of the debate John Randolph said: "If the time of disunion between the states should arrive, the line of severance would be between the slaveholding and the non-slaveholding states." *

The bill which finally became a law was not satisfactory to either party. It prohibited the domestic slave-trade in vessels under forty tons — which the Southern members resented. It made the forfeited negroes subject to the regulation of the legislatures of the various states — which the Northern members resented, as the Southern legislatures would provide that they should be sold. It im-

The law as finally enacted.

* Annals of Congress, 1807–1808, 626.

posed a fine of twenty thousand dollars upon all persons concerned in fitting out a vessel for the slave-trade, with the forfeiture of the vessel; a fine of five thousand dollars, also with forfeiture of the vessel, for taking on board a negro for the purpose of selling him in the United States. The person who took the negro to the United States and sold him as a slave was to be imprisoned not less than five nor more than ten years, and fined not less than one thousand dollars nor more than ten thousand dollars. The law was to take effect January 1, 1808.

Strenuous as was the opposition of Northern members to the forfeiture clause of the law, it is at least an open question whether many of them did not really prefer the enslavement of the forfeited negro *to his being settled in their own community as a freeman.* A dispassionate examination of all the evidence compels the doubt whether, for many years after the adoption of the constitution, there was after all any radical difference between the North and the South as to the character of the negro. If in the South the opinion was that the negro was such an inferior being as to make it dangerous to society to give him freedom, in the North the opinion seems to have been that he was so low in the scale of humanity that not much harm was done if one who was legally free should be enslaved.

Northern and Southern opinions of the negro.

How else did it happen that in 1793 only seven members of the House of Representatives voted against

a law which put the freedom of any negro in the Northern states at the mercy of any unscrupulous slaveholder who chose to swear that that negro was his slave? That in 1796 Congress refused to amend the law so as to make it more difficult to take free negroes into slavery even upon the request of a slave state? That in 1797, when a petition was presented from four North Carolina negroes who, after having been set free, had been re-enslaved under the provisions of an *ex post facto* law, the House by a vote of fifty to thirty-three refused even to receive the petition? That when, in the same year, Gallatin presented to the House of Representatives a memorial of the Quakers of Pennsylvania setting forth that one hundred and thirty-four negroes made free by Quakers in North Carolina had been re-enslaved under the provisions of a retroactive law, the House finally decided that it could do nothing about it, that it was strictly a judicial question—one with which Congress could not meddle? Surely the action of Congress in these various cases, action made possible by the votes of Northern men, irresistibly suggests the interpretation that it did not seem a matter of much consequence to doom a free negro to a life of bondage.

A study of the debates in Congress bearing on slavery will strengthen this impression. The Fugitive-slave Law passed without any debate whatever, although every man who voted for it knew with the certainty

of demonstration that under its provisions free men would be enslaved. In the debate on the memorial from Delaware respecting the kidnapping of free negroes, Coit of Connecticut expressed the doubt whether it was necessary for Congress to meddle with it, and Livingston of New York thought that, as slaves in the Southern states were regarded as property, the laws relating to stolen goods would apply to stolen slaves. It did not occur to him that the analogy completely failed at the vital point: in the case of stolen goods, the owner was interested in their recovery and could invoke all the machinery of the law to effect it; but in the case of a stolen negro, who besides the helpless slave had any interest in his freedom, and what law had white men made that could protect him?

When the pathetic memorial of the negroes who had been set free in North Carolina and whom an *ex post facto* law sought to re-enslave,—which set forth how they had been "hunted day and night, like beasts of the forest, by armed men with dogs," and how a fellow black for whom a reward of ten dollars had been offered if found alive, and fifty dollars if dead "and no questions asked," had been, under the operation of the retroactive law, sold again into slavery, and how, after escaping to Philadelphia and residing there for eleven years, he had lately been seized and imprisoned under the provisions of the Fugitive-slave Law, "a flagrant proof how far human beings merely on account of color

and complexion are, through the prevailing prejudice, outlawed and excluded from common justice and common humanity,"—when this memorial was read, five of the six men who spoke in favor of its being received were Northern men, but there was no passion in their tones, no note of quivering indignation at this crime against human nature; while the silence of those who were wont to be so eloquent when the pecuniary interests of their constituents were in question was more significant still.

Two of the men who contended that Congress had no power to deal with the case presented by the Quaker memorial were representatives from Massachusetts, each of them afterwards becoming chief justice of the Supreme Court of the state.

In a debate (January, 1800) on a petition of free blacks for a revision of the laws relating to the slave-trade and of the Fugitive-slave Law, and for the adoption of measures which would eventually lead to emancipation, Harrison Gray Otis said that he had never seen a petition presented under a more dangerous aspect. "No particular evils were pointed out in the Fugitive-slave Law. . . . He thought the subject ought not to be meddled with by the United States." Brown of Rhode Island was in hopes "that every member belonging to the Northern states would have seen by this time the impropriety of encouraging slaves to come from the Southern states to reside as vagabonds and thieves among them. He considered slaves as much personal

property as a horse or a ship. . . . We ought to repeal the laws in question [relating to the slave-trade]. Why may not our country be enriched by that lucrative traffic?"

In debating (January, 1818) a bill to provide more effectual means for the reclamation of fugitive slaves, Jonathan Mason of Massachusetts spoke in favor of it. "The judicial tribunals of the South he had no doubt would decide on the cases as correctly as those of the North, and on this subject perhaps more so, as, he believed, so strong was the feeling on this subject in the latter section of the country, and so great a leaning was there against slavery, that the juries of Massachusetts would in ninety-nine cases in a hundred decide in favor of the fugitive. His feelings also were somewhat interested. He wished not by denying just facilities for the recovery of fugitive slaves to have the town where he lived [Boston] infested with a great portion of the runaways of the South." Although injustice to the slave-owner meant only the loss of his slave, while injustice to the negro meant a life of bondage, Mason evidently preferred that the negro should be illegally enslaved rather than that he be permitted to live as a freeman in Boston.

If from Congress we turn to the Northern states, we are confronted on all sides with evidence that the negro was regarded as an outcast, a sort of connecting link between the most degraded and depraved white man and the monkey, a moral and social leper. In

1788, Massachusetts forbade free negroes to abide in the state longer than two months. In 1807, Ohio forbade any negro to come into the state unless within twenty days thereafter he gave bond to the amount of five hundred dollars for good behavior; the same law provided that no "black or mulatto person" should be allowed to give evidence in any case where either party to the controversy was a white man. In 1818, Indiana passed a law to the same effect. The same year, Illinois forbade any negro to reside in the state unless he could produce a certificate of freedom; a negro without such certificate was to be deemed a runaway slave and committed to the custody of the sheriff, who should advertise him, and then, no one having appeared to claim him, hire him out for a year. In 1786, New Jersey forbade any negro who had been freed in other states to travel in the state. Though the census of 1820 showed that there were twice as many free negroes as slaves in the state, as late as 1826 the Supreme Court of New Jersey ruled that a negro was to be presumed a slave unless he could prove that he was free!

Public opinion both North and South, so far as it was embodied in legislation, seemed to assume that negroes were such intrinsically degraded beings as to make it a menace to society to permit them to exist as freemen in large numbers in any community. When Early said that, although slavery was regarded as an evil by every

man in the South, "to have among us in any considerable quantity persons of this description [free negroes] is an evil far greater than slavery itself," he was voicing the public opinion not only of the South but probably of the entire country. If in 1820 the people of any Northern state could have freed the slaves of any Southern state by their vote (no violence being done to the rights of their owners), upon condition that the freedmen emigrate to the state of those who would emancipate them, it is doubtful if they would have done it.

Deprived of all opportunities for education, shut off from all the influences that might have made him respectable and self-respecting, subjected to an elaborate legal and social mechanism perfectly adapted to keep him as near as possible at the level of a mere chattel, the negro naturally showed brutish qualities, and society North and South accepted the inevitable results of its own training as indisputable proof that degradation was in his blood, that he was incapable of being raised to the level of ordinary humanity.*

* See Thorpe's Constitutional History of the United States and the authorities there referred to; Dunn's History of Indiana, *passim;* Edwards' History of Illinois, 130; Hart's Life of Salmon P. Chase; Life of Lundy (the latter quotes from Lundy's "Genius of Emancipation" to show that in 1827 one hundred and six of the one hundred and thirty antislavery societies in the country outside of Illinois were in slaveholding states); Birney's Life of Birney (especially suggestive is an account of the results of a careful attempt to ascertain the relative amount of pro- and anti-slavery sentiment in North

CHAPTER XXIII.

THE MISSOURI COMPROMISE.

THE conclusion reached in the last chapter makes it easy to understand why from the very beginning Congress did not hesitate to legislate in the interests of slavery. In 1789, North Carolina and, in 1802, Georgia ceded to the United States the territories which they had claimed, stipulating, as one of the conditions, that no regulations should be made in those territories which tended to the emancipation of slaves. Congress accepted both cessions on that condition without debate and without protest. The treaty with the Creek Indians, the first treaty made under the new constitution (August, 1790), contained stipulations in behalf of slavery. It required the Creeks to give up the slaves who had fled to them from

Instances in which the general government had intervened in behalf of slavery.

Carolina in 1826. The conclusion reached was that fully four fifths of the people of the state were opposed to slavery); Storey's Life of Sumner, and the article on Abolition in Lalor's Cyclopedia, which calls attention to the fact that nearly every man who afterwards became famous as an abolitionist was first a member of the American Colonization Society, which sought to encourage emancipation by colonizing free negroes outside the United States, — as though any emancipation scheme that did not provide for getting the free negro out of the country was absurd.

Florida, and made it their duty to compel the Seminoles in Spanish Florida to do the same thing. In 1798, Congress decided that the Ordinance of 1787 should apply to the Mississippi territory, with the exception of the clause prohibiting slavery. In insisting, therefore, in 1807, that the government should become a slave-dealer, since the interests of slavery required it (if the prohibition of the slave-trade was to be effectual), Southern men were only asking that the government should add one more to an almost unbroken series of precedents in which the interests of slavery had been treated as any other interest protected and promoted by all the power of the government.

Tallmadge's amendment to the Missouri Bill.

The first really great struggle in Congress in which the question of slavery was directly involved began in 1819. In March, 1818, a petition was presented in the House of Representatives praying for the admission of Missouri as a state. On February 13, 1819, a bill granting the petition was taken up in the House, and Tallmadge of New York moved to amend it by making the admission of Missouri subject to two conditions: that the further introduction of slaves into Missouri should be prohibited, and that where the children of slaves were born after the admission of Missouri, they should be free when they became twenty-five years of age.

Tallmadge introduced his amendment with all the tact of which he was master. He explained his motives with the hope that if he did not succeed in disarming opposition, the slaveholders would at least appreciate his liberality and oppose him with moderation. He said that his amendment contemplated only the newly acquired territory across the Mississippi; that he had no wish to meddle with slavery in the slaveholding states; that he was aware of the delicacy of the subject, and that he had learned from Southern gentlemen the difficulties and dangers of having free blacks intermingle with slaves; that, for that reason, he would not even advocate the prohibition of slavery in the territory of Alabama, because, "surrounded as it was by slaveholding states, and with only imaginary lines of division, the intercourse between slaves and free blacks could not be prevented, and a servile war might be the result."*

Tallmadge's explanation.

His attempt at conciliation was a complete failure. Scott, the delegate from Missouri, bade the advocates of Tallmadge's amendment beware of the "Ides of March" and the fate of Cæsar and Rome; and Cobb of Georgia said that if "you [the advocates of Tallmadge's amendment] persist, the Union will be dissolved," and, looking at Tallmadge,

Anger of the Southern men.

* Annals of Congress, 1818–1819.

"you have kindled a fire which all the waters of the ocean cannot put out, which seas of blood can only extinguish."* Colston of Virginia told Livermore of New Hampshire "that he was no better than Arbuthnot or Ambrister, and deserved no better fate."

Its explanation.

These statements, made in the first three days of the debate, are only fair illustrations of the intensity of the passion which the opposition to slavery in Missouri excited. In order to understand it we must remember that the representatives of the slave states were themselves slaveholders to a man. "When," asked Taylor of New York in the course of the debate, "have we seen a representative on this floor from that section of our Union who was not a slaveholder? Who but slaveholders are elected to their state legislatures? Who but they are appointed to fill their executive and judicial offices? I appeal to gentlemen whether the selection of a laboring man, however well educated, would not be considered an extraordinary event."†

Belonging to an aristocracy of slaveholders, the Southern members of Congress represented nothing else; the tremendous antislavery sentiment which then existed in the South found no expression in them. And hence the proposal to make Missouri a free state, which would have tended to depreciate the value of the property of that

* Annals of Congress, 1819-1820, 1204.
† Ibid., 1177.

aristocracy and to restrict its influence, excited intense indignation. The cotton-gin had already transformed the slaveholders into a political power which would present a united front on any questions in which the interests of slavery were involved.

On February 17, 1819, the House passed the Missouri Bill with Tallmadge's amendment by a vote of eighty-seven to seventy-six, one representative of the slave states voting for restriction, and ten from the free states against it. Eleven days later the Senate struck out the anti-slavery provisions and sent the bill back to the House. The House refused to recede from its position, and Congress adjourned, leaving the prayer of Missouri unanswered. Great excitement prevailed all over the country. The legislature of Delaware and that of every Northern state outside of New England passed resolutions demanding the exclusion of slavery from Missouri, and in New England the same demand was vigorously expressed by many towns and cities. With the exception of Delaware, the demand of the slave states for the admission of Missouri with no restriction as to slavery was equally emphatic.* The North protested against the admission of Missouri with slavery as a crime against humanity; the South protested against the slavery restriction as an outrageous violation of those rights of

Action of Northern and Southern states.

* Niles, 17, 342.

self-government which the constitution guarantees to the states.

Before Congress adjourned the Southern part of Missouri was cut off and organized as the territory of Arkansas. An amendment to the bill substantially the same as Tallmadge's amendment to the Missouri Bill was finally lost by but two votes. The most significant thing in the debate was an argument by a member from North Carolina that the imposition of the restriction on Arkansas would take away from the people of the territory "the natural and constitutional right of legislating for themselves"—a distinct avowal of the doctrine afterwards known as "squatter sovereignty." For the most part, however, Southern members did not question the right of Congress to exclude slavery from the territories.

The Sixteenth Congress met December 6, 1819. Clay was again elected Speaker. On January 6, 1820, a bill was introduced in the Senate providing for the admission of Maine (which was then a part of Massachusetts) and Missouri, with slavery permissible in the latter. The object in coupling them was, as Southern senators frankly avowed, to compel Northern senators to vote for the admission of Missouri with slavery, by making the admission of Maine contingent upon that of Missouri. On February 16, 1820, after a month of exciting debate, the bill was carried in the Senate by a majority of two, three Northern senators having voted for it—two from Illinois and one from

Introduction of a bill providing for the admission of Maine and Missouri.

Indiana. The next day, Thomas of Illinois proposed a new amendment, prohibiting the introduction of slavery into any part of the remainder of the Louisiana territory north of 36° 30′ north latitude, which was the southern boundary of Missouri. Thus amended the bill passed the Senate (February 17) by a vote of twenty-four to twenty, all but two of the Southern senators—one from North Carolina and one from South Carolina,—with those from Delaware and Illinois, voting for it, and all of the Northern senators, excepting those from the states just mentioned, voting against it.

Meanwhile the House was hotly debating a bill for the admission of Missouri on condition of the prohibition of the further introduction of slaves. On February 19, the Maine-Missouri Bill with Thomas' compromise came before it, and on February 23 it voted down the compromise by an overwhelming majority, one hundred and fifty-nine to eighteen. By a small majority the House passed a bill providing for the admission of Missouri with the antislavery provision.

The Senate, however, would not recede from its position, but voted (February 24) to refer the matter to a joint committee. The House consented and a committee of conference was appointed. The report of this committee (submitted to the House March 3) contained three recommendations: first, that the Senate abandon its attempt to unite the Maine and Missouri bills in one, and that

Report of the committee of conference.

Maine be admitted into the Union; secondly, that the House abandon the attempt to exclude slavery from Missouri; thirdly, that the House consent to the compromise voted by the Senate, i.e., that Missouri be admitted without any restriction as to slavery, but that slavery be for ever prohibited in all of the rest of the territory ceded by France north of latitude 36° 30′, the southern boundary of Missouri.

When the vote on this report was taken in the House, the recommendations of the committee were carried by a majority of three, ninety votes being cast for them and eighty-seven against them. Fourteen of the affirmative votes were cast by Northern men.*

Missouri Compromise passes.

When the Compromise Bill passed both Houses of Congress, Monroe called a meeting of the cabinet to consider the following questions: Had Congress a constitutional right to prohibit slavery in a territory? Did the eighth section of the Missouri Bill (which for ever interdicted slavery north of thirty-six and a half degrees north latitude) apply to the territories of the United States only while they were under territorial government, or did it continue to apply after the territories became states?

Cabinet discussion of the Missouri Compromise.

Though several members of the cabinet, Calhoun,

* See Annual Report of the American Historical Association, 1893, page 264, for a clear statement of the significance of this vote.

Crawford, and Wirt, were slaveholders, it was unanimously agreed that Congress had power to prohibit slavery in the territories.*

As to the second question there was a decided difference of opinion between John Quincy Adams and the rest of the cabinet. All of the cabinet except Adams maintained that the eighth section would be binding upon a territory alone; that when the territory became a state it could do as it pleased about slavery.

Adams based his opinion on the ground that, since slavery was forbidden in the territory, the people would have no right to sanction slavery when they came to form a constitution. The only just powers of government, he said, are derived from the consent of the governed. A power for one part of the people to make slaves of the rest could never be derived from consent and was, therefore, not a just power. As to the right of imposing the slavery restriction upon a state, the President had signed a bill with precisely the same restriction upon the state of Illinois; why raise the question now when it was not raised then?

Adams' opinion.

Crawford replied that that restriction was imposed in harmony with the Ordinance of 1787. Moreover, the restriction was a mere nullity, in no way binding upon the legislatures of the states admitted out of the Northwest Territory.

Crawford's opinion.

* Madison was of a contrary opinion. Works, III., 149, 157, 168.

Adams maintained that, the power of establishing slavery being not a sovereign but a wrongful and despotic power, Congress had a right to say that no state undertaking to establish it *de novo* should be admitted into the Union, and that a state which should undertake to establish it would forfeit all the rights and privileges peculiar to statehood. But he did not point out the clause in the constitution which gave Congress such power.

Calhoun suggested an evasion of the difficulty by proposing that the question be put whether the eighth section was consistent with the constitution. Monroe assented, and when the question was so put every member of the cabinet answered it in the affirmative, all of them except Adams construing it to apply merely to the territories while they were under a territorial government, and he to the territories also after they had become states. Monroe signed the bill and it became a law.

The difficulty evaded.

But the Missouri question was not settled. When the Sixteenth Congress met at its second session (November 20, 1820) the delegate from Missouri presented a constitution that had been adopted by a constitutional convention of that territory which not only authorized slavery, but made it the duty of the state legislature to pass laws to prevent free negroes from coming into the state "on any pretext whatever."

Missouri's constitution.

A motion to admit Missouri with this constitution at once became the occasion of a long and exciting debate. The restrictionists contended that free negroes were citizens in several of the states, and that therefore the obnoxious clause in the constitution was in direct conflict with that clause in the constitution of the United States which declares that the "citizens of each state shall be entitled to all the privileges and immunities of citizens of the several states." The argument turned upon a question of fact. Assuming that no one was a citizen who was not possessed of "all the civil rights of every other person in the community under like circumstances of which he is not deprived for some cause personal to himself," Barbour argued that free negroes were not citizens in any state; that while they were allowed to vote in North Carolina, they were deprived of the privilege of giving testimony in any case to which a white man was a party; that Virginia, considering free negroes as hostile to the public peace, required them to leave the state within twelve months after receiving their freedom. Besides, the right contended for by the friends of Missouri was grounded in the very nature of things. "If vagabonds and fugitives from justice infest a state, they may certainly be expelled from it. We in the South consider this description of population the most dangerous that can be conceived. They are perpetual monuments of

Were free negroes citizens in any of the states?

discontent, and firebrands to the other class of their own color."

McLean of Delaware said: "If the right [of negroes] to vote in certain states exists, it is in theory only; if exerted, it is by stealth. . . . From what does this result? From every man's own sense of the insuperable disparity which exists between white and black as to every qualification upon which the right of suffrage is founded. Whithersoever the unfortunate African turns he finds the actual condition of things marked by a line of discrimination stronger and more durable than bars of brass or iron. Founded on the natural sense of the community, it has become the common law of the land. . . . Delaware, Maryland, Virginia, South Carolina, Georgia, Ohio, Illinois have each passed laws similar to that proposed to be enacted in Missouri. . . . Why force upon Missouri an evil which every other state is trying to shake off?"

Lowndes' speech.

By far the ablest speeches on the Southern side of the question were made by Lowndes. His main thesis, that by virtue of the law passed in the preceding session Missouri was already of right in the Union, that the question of the constitutionality of her constitution was for the Supreme Court, not Congress, to decide, we may pass by without remark, as it exerted no influence on the course of history. With characteristic fairness he admitted by implication that free negroes were citizens in some of the states. But he thought the obnoxious clause in the con-

stitution of Missouri ought to be construed "liberally as intending to exempt from its operation such of them [free negroes] as were citizens in some of the states." He exposed with irresistible force the utter hollowness of the pretext that Northern men were objecting to the admission of Missouri because of their regard for the rights of the free negro. He reminded them of the language of the law which they had themselves voted for in the preceding session (the act to incorporate the inhabitants of the city of Washington): "The corporation shall have full power to restrain and prohibit the nightly and other disorderly meetings of slaves, free negroes, and mulattoes, . . . and prescribe the terms and conditions upon which free negroes and mulattoes may reside in the city"; and asked the Northern members what they meant by it—"whether they meant it to apply to the free citizen if he were black?"

When (December 13, 1820) the vote was finally taken, the motion to admit Missouri was lost by fourteen votes. Upon the announcement of the result, Lowndes arose and called upon the majority to take measures to protect the territory, rights, and property of the United States in Missouri. He meant to insinuate that the refusal to admit Missouri would excite the people of that territory to revolt. His remark was all the more significant from the fact that he was a man of mild temper and quiet manner, with more personal influence, in the

opinion of John Quincy Adams, than any other man in the House.

Senate resolution to admit Missouri voted down in the House.

On January 29, 1820, a resolution from the Senate providing for the admission of Missouri on condition that nothing "herein contained shall be so construed as to give the assent of Congress to any provision in the constitution of Missouri (if any such there be) which contravenes that clause of the constitution of the United States which declares that the citizens of each state shall be entitled to all the privileges and immunities of citizens of the several states," came to the House and, on February 2, Clay moved to refer it to a special committee of thirteen members. On February 10, 1821, the committee, of which Clay was chairman, brought in a report. The report recommended the admission of "Missouri on an equal footing with the original states in all respects whatever, upon the fundamental condition that the said state shall never pass any law preventing any description of persons coming to, and settling in, the said state who now are, or hereafter may become, citizens of any of the states of the Union." The recommendation was rejected (February 12) by a vote of eighty-three to eighty.

Speech of Charles Pinckney.

The next day, a motion to reconsider having carried, Charles Pinckney of South Carolina, who had been a member of the federal convention, made a notable speech. "I consider this," he said, "beyond all comparison the second question

in importance which has been agitated among us since our revolt from the parent state. This is the only one which in its consequences may lead to a dissolution of the Union." After endeavoring to prove the superiority of the constitution of Missouri to those of the other states, he said: "I was the only member of that body [the federal convention] who ever submitted the plan of a constitution drawn in articles and sections; and the article on which so much stress is laid having been made by me, it is supposed I must know what I meant by it. In answer I say that at the time I drew that constitution, I perfectly well knew there did not then exist such a thing in the Union as a black or colored citizen, nor could I then have conceived it possible such a thing could ever have existed in it; nor do I now believe one does exist in it." He declared that the few negroes who had been in New England at the close of the Revolutionary War had been almost entirely driven away "by treating them on every occasion with the most marked contempt." (It is worthy of note that no representative of New England took issue with him on that point.) He said that "the love of liberty, humanity, or religion" had nothing to do with the origin of the attempt to restrict slavery in the new states. "It is the love of power and the never-ceasing wish to regain the honors and offices of the government, which they know can never be done but by increasing the number of the non-slaveholding states."

Clay followed in a speech in which he "alternately reasoned, remonstrated, and entreated with the House to settle for ever the agitating question" by passing the resolution before it. But to no purpose. The resolution was lost by a vote of eighty-two to eighty-eight.

It had been contended all along by many of the pro-slavery men that Missouri was already a state in consequence of the enabling act which had been passed in the preceding session. Foreseeing that trouble might arise over the question of the counting of Missouri's vote for President and Vice-President, Clay had moved (February 4) that if any objection should be made to the counting of the vote of Missouri, the President of the Senate, who would preside on the occasion, should announce that, counting the vote of Missouri, the result was so and so, and without the vote of Missouri, so and so, but that in either case A B was elected. This motion passed; but, in spite of it, when the day for counting the vote arrived (February 14) one of the most exciting struggles of the session took place.* The matter was finally disposed of in accordance with Clay's motion.

Struggle over the counting of Missouri's electoral vote.

But three weeks now remained of the session. Whatever was to be done must be done quickly. After

* See Professor Woodburn's article already cited, Annual Report of American Historical Association (1893), 277, 291, for details.

one or two futile efforts to dispose of the matter, Clay moved (February 22) that a joint committee, to consist of twenty-three members on the part of the House, be appointed. His motion carried, and two days later the committee reported, making substantially the same recommendation which had been made by the committee that reported February 10.

Report of a joint committee.

If the Missouri legislature would give a solemn pledge that the constitution of the state should not be so construed as to authorize the passage of a law "by which any citizen of either of the states of this Union should be excluded" from the enjoyment of any privilege to which he is entitled under the constitution, the President should proclaim the admission of Missouri, and Missouri should thereby be admitted into the Union "on an equal footing with the original states." The report was adopted in the House by a close vote — eighty-six to eighty-two. Having already passed the Senate, it was approved by Monroe, and the Missouri struggle was over. The Missouri legislature complied with the condition June 26, 1821, and, after having been the occasion of a struggle which shook the Union to its foundations, Missouri was declared by Monroe (August 10) admitted into the Union.

Adoption of the report.

CHAPTER XXIV.

THE DEBATE UPON THE MISSOURI COMPROMISE.

IN the long and heated debate upon the admission of Missouri, the tide of argument surged around three main points: the constitutionality of the slavery restriction; its conformity to the treaty by which France ceded the Louisiana territory; its expediency.

William Pinkney, senator from Maryland, stated the position of the South on the question of constitutionality with great force. Referring to the clause in the constitution upon which the other side laid great stress, "New states *may* be admitted by the Congress into the Union," Pinkney argued that in order to ascertain whether "a discretion to grant or refuse" involves a power to impose conditions, Congress must look to the *result* which was the declared object of the power. Whether it would have the result or not might depend on its will—it might do as it pleased about admitting a state into the Union; but it could not change the character of the result *fixed by the constitution.*

Pinkney's argument that the Union is a union of equal states.

"What, then, is the professed result? To admit a state into the Union. What is that union? A confederation of states equal in sovereignty, capable of everything which the constitution does not forbid or author-

ize Congress to forbid. It is an equal union between parties equally sovereign. . . . It is into this union that a new state is to come. . . . If it comes in crippled and disparaged beyond the original states, it is not into the original union that it comes. . . . The first was a union among equals; this is a union between unequals. . . . It is into this union, the union of the federal constitution, that you are to admit or refuse to admit. You can admit into no other."

Rufus King's speech.

Rufus King, on the other hand, not only contended that Congress had the right to exclude slavery from the new states, he pointed out the fact that the right had been exercised in the case of Ohio, Illinois, and Indiana. To the argument that such a restriction imposed upon Missouri would be nugatory, as the new state by virtue of its sovereignty could set it aside, he replied that the Supreme Court of the United States would "on proper application immediately deliver from bondage any person detained as a slave" in a state admitted upon condition that slavery should be excluded.* But he did not show how the Supreme Court could compel a state to be bound by a compact which, if Pinkney's argument was sound, Congress had no right to require it to make as a condition of admission to the Union. In truth, a condition imperatively

* Niles, 17, 218.

demanded by the best interests of the country was at variance with the constitution.

Constitution guarantees to each state a republican government.

Northern members sought to find a warrant in the constitution for the prohibition of slavery in Missouri by appealing to the clause which makes it the duty of Congress to guarantee to every state a republican government. How can a government which permits slavery, they asked, be republican? The theory of republican government is that the only just powers of government are derived from the consent of the governed. But governments which permit slavery permit men to be governed without their consent.

But what kind of a republican government?

Has Virginia a republican form of government, Pinkney asked in reply, and, if so, why? "There can be no other answer than that the constitution recognizes slavery as existing, or capable of existing," in states which have a republican government. "The constitution, then, admits that slavery and a republican government are not incongruous. . . . I trust that I shall be forgiven if I suggest that no eccentricity of argument can be more trying to human patience than a formal assertion that in a constitution to which slaveholding states were the most numerous parties, in which slaves are treated as property as well as persons, and provision is made for the security of that property, and even for an augmentation of it by a temporary importation from Africa, a clause commanding Congress to guarantee a republican form of govern-

ment to those very states, as well as to others, authorizes you to determine that slavery and a republican government cannot coexist."*

Verily, the republicanism of theory and the republicanism of the constitution were in hopeless contradiction. From the point of view of theory, the North was unquestionably right; but from the point of view of the constitution, the South was as unquestionably right. As John Quincy Adams put it, the question at issue between the two sections was one "between the rights of human nature and the constitution of the United States."†

The South also contended that the Louisiana treaty with France in 1803 forbade any restriction as to slavery in any of the states that might be formed out of the Louisiana territory. The clause in the treaty upon which this argument was based reads as follows: "The inhabitants of the ceded territory shall be incorporated into the union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." In the opinion of Southern men, this clause required the admission of Missouri without any

Argument of the South based on the Louisiana treaty.

* Annals of Congress, 1819-1820, 412. † Memoirs, IV., 506.

restriction as to slavery, because otherwise her citizens would not enjoy all the rights of citizens of the United States.

But this argument, as their opponents urged, was based on two misconceptions. In the first place, the phrase "as soon as possible" was assumed by Southern men to mean "as soon as the inhabitants of a territory were numerous enough to justify its admission as a state." But upon what ground could the phrase be so interpreted? Why was it improper to admit into the Union a territory with only a thousand inhabitants? Plainly because it would be inconsistent with the general welfare. Any other obstacle, therefore, in the way of the general welfare might equally well serve to justify the refusal of Congress to admit a territory into the Union.

Misconceptions on which this argument was based.

On this point Harrison Gray Otis was irresistible. "Without the power of annexing conditions, the United States would be a strange anomaly in the society of nations, compelled to admit to a participation of their fundamental powers and privileges, without terms or restrictions, any people, in whatever part of the world, which the executive government should acquire by treaty, however alien their laws and usages might be from those of our nation. . . . It is not long since the feudal system prevailed in France." Suppose feudal tenures had been introduced into Louisiana, would "the United States be held to admit new

Otis' speech.

states in that territory without stipulating for the abolition of those tenures?"

But if Otis was right, how could Pinkney be wrong? For the two men were arguing in support of propositions which were perfectly consistent with each other. Otis was contending that neither the treaty with France nor the obligations of the constitution required the government to admit into the Union a state whose institutions would not promote the general welfare; Pinkney, that the imposition upon one state of conditions which the constitution did not impose upon all states was a violation of the constitution, since the union for which it provided was a union of equal states. It followed irresistibly from Otis' argument that the government was under no obligation to admit Missouri until the general welfare would be promoted by it; from Pinkney's argument the deduction was plain that *when* Missouri was admitted no restriction as to slavery could be imposed upon it. Indeed, Pinkney admitted in substance Otis' conclusion in the very beginning of his argument. Said Pinkney: You can do as you please as to whether or not you will admit a state into the Union. That was what Otis proved. But if you admit it, you must admit it into *this* union, which is a union of equal states.

Otis' and Pinkney's arguments compared.

The second misconception in which the argument of the South based on the treaty was involved was the confusion of the phrase "citizens of the United States"

with the phrase "citizens of certain particular states." The clause in the treaty bound the federal government to confer upon the inhabitants of the ceded territory all of the rights of citizens of the United States. But by virtue of what right did a Virginian hold slaves? By virtue of his right as a citizen of Virginia. A citizen of Massachusetts could not hold slaves, and yet he was a citizen of the United States. The duty, therefore, of conferring upon the citizens of the Louisiana territory all the rights which belonged to citizens of the *United States* did not involve the duty of conferring upon them the right to hold slaves. Slavery was a creature of state law, and the right to hold slaves, when it existed, resulted from citizenship in a state whose constitution permitted slavery. Because a citizen of a state has all the rights of citizens of the United States, it does not follow that a citizen of the United States has all the rights enjoyed by citizens of particular states.

Southern members also contended that the clause in the treaty already quoted would be violated by the proposed restriction, inasmuch as slaves were property, and the inhabitants of Missouri were to be protected in the free enjoyment of their property. To this King's reply was complete: Slaves were not property in the language of international law. In treaties between the United States and other countries, whenever stipulations relating to slaves were to be made the word "negroes" or "slaves" had

Slaves not property in international law.

been employed. Besides, the stipulation extended no further than to the property actually possessed by Missouri when it had first been occupied by the United States.*

The inexpediency of admitting Missouri as a slave state was urged on various grounds. Northern men said that to permit slavery in Missouri would increase the value of slaves and thereby strengthen the motives for the violation of the laws against the slave-trade; that, in spite of the stringent legislation against that trade (and law after law had been passed, since 1807, increasing the penalties for its violation), fourteen thousand negroes had been imported from Africa the preceding year.

Admission of Missouri would strengthen motives for engaging in slave-trade.

"While a negro man is bought in Africa for a few gewgaws or a bottle of whisky and sold in New Orleans for twelve or fifteen hundred dollars, avarice will stimulate to a violation of your laws." Sergeant of Pennsylvania argued that the extension of slavery to Missouri would tend directly "to the re-establishment of the foreign slave-trade, for it has a tendency to break down that great moral feeling . . . to which alone we are indebted for the abolition of that detestable traffic, so long the disgrace of Christendom." He declared that slavery in the slave states was even then exerting an influence in that direction. "It is notorious that, in spite of the utmost vigilance that can be employed, African

* Niles, 17, 217.

negroes are clandestinely brought in and sold as slaves. This could not be done if there were a universal sentiment against the trade. The existence of the traffic proves that it meets encouragement from the feelings and interests of the community." *

The economic effect of slavery upon the slave states was urged as a reason for restricting slavery. "Who has travelled along the line which divides Maryland from Pennsylvania," asked Taylor of New York, "and has not observed that no monuments are necessary to mark the boundary; that it is easily traced by following the dividing lines between farms highly cultivated and plantations lying open to the common and overrun with weeds; between stone barns and stone hedges on one side and stalk cribs and no hedges on the other?"†

Economic effects of slavery.

Taylor hinted at the sinister influence which the policy of admitting new slave states would exert upon the general government. "On the implied power to acquire territory by treaty, you raise an implied right to erect it into states, and imply a compromise by which slavery is to be established, and its slaves represented in Congress. Is this just? . . . Where will it end? Must we allow representation not only to French and Spanish slaves

Influence of slavery upon the foreign policy of the government.

* Annals of Congress, 1819-1820, 1207.
† Ibid., 1818-1819, 1178.

bought with the territory in question, but to African slaves smuggled into it in violation of the law? But your lust of acquiring is not yet satisfied. You must have the Floridas. . . . You covet Cuba and obtain it. You stretch your arms to the other islands in the Gulf of Mexico and they become yours." And then he asked a question which indicated the source of a great part of the opposition of the North to the admission of Missouri as a slave state. "Are the freemen of the old states to become the slaves of the representatives of foreign states?" He showed that Northern men had not forgotten how to threaten the dissolution of the Union. "You may have the power to pass such laws, but beware how you use them. . . . If there be a transgression which in its very nature is beyond forgiveness and requires resistance, it consists in admitting into the concern new and unexpected partners in such a manner as to change the principles of the partnership itself and destroy the rights of the original owners." *

There was one argument which the obligations of courtesy prevented Northern men from urging with the directness and emphasis which the facts of the case demanded. Mingling in daily intercourse with the polished gentlemen from the South, Northern men found it hard to tell them that

Effect of slavery upon the slaveholder.

* Annals of Congress, 1818–1819, 965.

one of the worst effects of slavery was its influence upon the slaveholder. Morrill of New Hampshire managed to insinuate this argument by making the following quotation from Jefferson: "There must be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slaves is a perpetual exercise of the most boisterous passions, the most unrelenting despotism on the one part, and degrading submission on the other. Our children see this and learn to imitate it. . . . The parent storms; the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives loose rein to his worst passions, and, thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities."*

Undemocratic tendencies of slavery.

One effect of slavery upon the slaveholder Northern men stated with more directness. Taylor said that the effect of slavery was to make the slaveholder regard the work done by slaves as "low and unfit for freemen. I cannot better illustrate this truth than by referring to a remark of the honorable gentleman from Kentucky [Clay]. I have often admired the liberality of his sentiments. He is governed by no vulgar prejudices. Yet with what abhorrence did he speak of the performance by your wives and daughters of those domestic offices which he was

* Annals of Congress, 1818-1819, 150.

pleased to call servile! What comparisons did he make between the 'black slaves' of Kentucky and the 'white slaves' of the North, and how instantly did he strike the balance in favor of the former!"*

Richard M. Johnson on white servants.

Richard M. Johnson of Kentucky, afterwards Vice-President of the United States, whose manly position in the defence of the rights of his country in those terrible years before the War of 1812 we all gratefully remember, gave point to Taylor's conclusion in the following utterance: "When I first came to Congress, it was with mingled emotions of horror and surprise that I saw citizens of the non-slaveholding states riding in a coach and four, with a white servant seated before, managing the reins, another standing behind the coach, and both of these white servants in livery. Is this, said I to myself, the degraded condition of the citizen on whose voice the liberties of a nation may depend? I could not reconcile it with my ideas of freedom, because in the state where I received my first impressions slaves alone are servile. They whose

* Annals of Congress, 1819–1820, 1177. But John Quincy Adams acknowledged that "if institutions are to be judged by their results in the composition of the councils of the nation, the slaveholders are much more ably represented than the simple freemen. With the exception of Rufus King, there is not in either House a man who is able to cope in powers of mind with William Pinkney or James Barbour. In the House of Representatives, the freemen have none to cope on equal terms with John Randolph or Clay." — Memoirs, IV., 506.

business it is to perform menial offices in other states are as servile as our slaves in the West. Where is the great difference between the condition of him who keeps your stable, who blacks your boots, who holds your stirrups, . . . and the slave who obeys the command of his master? There may be a nominal difference, but it would be difficult to describe its reality. In the one case it is called voluntary, because it is imposed by its own necessity, and in the other involuntary, because imposed by the will of another."*

Pity that a John Randolph, with his keen eye for the flaws in an adversary's argument, with his power of invective and sarcasm, with his merciless disregard of the feelings of his opponents, had not been in the Senate, on the side of the North, when Johnson made his speech! One can imagine the eager joy with which he would have accepted such a speech as a challenge to battle. If the great slaveholders in the Senate "gnawed their lips and clenched their fists" as they listened to the moderate speech of Rufus King, one can imagine how they would have writhed under the knife of a John Randolph as he laid bare the secret of their souls. They prided themselves on their republicanism; they pointed to the author of the Declaration of Independence as their political father; they regarded Alexander Hamilton and his opinions with loathing, and yet they outfederaled the Fed-

* Annals of Congress, 1819–1820, 349.

eralists. "White servants" allowed to vote! Men engaged in menial offices entrusted with the liberties of the nation! The thought of it filled the slaveholders with horror. (It had the same effect upon Alexander Hamilton; it has the same effect to-day upon disbelievers in democratic government the world over.) Taught by the influences created by the cotton-gin, the slaveholders had already come to the fundamental position of the Hamiltonian Federalists: that men in certain walks of life have not the capacity of self-government. They had indeed gone far beyond it. The Federalists only wished to arrogate to themselves the right to make laws for the ignorant masses; the slaveholders, the right of directing them in every detail of life, and of appropriating the results of their labor if their skins were black, and if their skins were of any other color these so-called Republicans regarded them with horror!

Opinion of manual labor in the South.

It was indeed only domestic labor that was looked upon as degrading in the South. A man might work in a shop, or in a factory, or on a farm, and exercise the right to vote without danger to the liberties of the nation. But domestic labor! That was the proper work of slaves! No white person could descend to it. Such was public sentiment in the South that Calhoun told John Quincy Adams that if he, who was the most popular man in his

character and reputation would be irretrievably ruined.*

But what line could reason draw between domestic labor and labor on a farm? If domestic labor was so intrinsically degrading, why not any other kind of manual labor? The old Greeks were consistent. They did not pretend to believe in the inherent dignity of humanity and the fundamental equality of men. They believed in slavery, and they thought all kinds of manual labor the proper work of slaves. If the slaveholders had been consistent, the only republic they would have believed in would have been one modelled after Plato's, with the slaveholders as rulers, and the rest of society as their slaves.

It must have been an interesting question to an observer in 1820 whether the influences of slavery would not tend to make the slave-barons more and more strenuously demand that the American republic should be that kind of a republic; whether the oligarchy of slaveholders which, under the forms of republican government, ruled without hindrance in the slave states, would not insist upon ruling in the same way in the federal government; whether habits of command, which met no obstacle in Richmond and Charleston, would brook opposition in Washington; whether the feeling of superiority with which Southern slaveholders looked down upon

* Memoirs, V., 10.

the unfortunate man who was obliged to work for his living would not cause them to regard themselves, in the course of time, as alone fit to rule.

The arguments of the South to show the expediency of slavery were elaborations of one point: that to extend slavery to Missouri, while it would not increase the number of slaves, would decrease the evils of slavery by lessening the number in any one state.* Did the Northern men whose votes made the Missouri Compromise possible

Arguments of the South to prove the expediency of slavery.

* This argument was urged not only by the ablest of the Southern men in Congress, — by William Pinkney and James Barbour in the Senate, and by Clay and Lowndes in the House, — but by Jefferson and Madison. In comparison with this opinion it is interesting to read the reflections of John Quincy Adams upon the Missouri struggle, and the more so since we know that these reflections were preparing him for the great work of his life. On January 10, 1820, he wrote: "I take it for granted that the present question is a mere preamble — a title-page to a great tragic volume. . . . The time may, and I think will, come when it will be my duty to give my opinion, and it is even now proper for me to begin the preparation of myself for that emergency. The President thinks this question will be winked away by a compromise. But so do not I. Much am I mistaken if it is not destined to survive his political and individual life and mine."

February 11, 1820: "The great slaveholders gnawed their lips and clenched their fists as they heard him [Rufus King]. They considered his speeches seditious and inflammatory, when their greatest real defect is their timidity. Never since human sentiments and human conduct were influenced by human speech was there a theme for eloquence like the free side of this question. . . . Oh, if but one man could arise with a genius capable of comprehending, a heart capable of supporting, and

deserve to be called "doughfaces" (John Randolph so characterized them) and "deserters from the cause of freedom"? To the same extent as the members of the federal convention, and no more. The latter put the slavery clauses into the constitution for the sake of union. Did they act wisely? If a union with slavery was better than no union at all, they did. No doubt, as Adams said, the bargain between freedom and slavery in the constitution was inconsistent with the principles of the Ameri-

Wisdom of the Missouri Compromise.

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an utterance capable of communicating those eternal truths that belong to this question, to lay bare, in all its nakedness, that outrage upon the goodness of God, human slavery, now is the time, and this the occasion, upon which such a man would perform the duties of an angel upon earth."

On February 24, he gives an account of some interesting conversations relating to the Missouri question. He says that he met General Bloomfield, a representative from New Jersey, "who with many others is much alarmed at the dissensions which have arisen in Congress and the nation from the Missouri question." The same day, Livermore and Plumer, representatives from New Hampshire, asked his opinion as to the propriety of agreeing to a compromise. "I told these gentlemen my opinion was that the question could be settled no otherwise than by compromise."

March 1 (the Missouri Compromise had just passed both Houses of Congress): "I have been convinced from the first that it could not end otherwise. The fault is in the constitution of the United States, which has sanctioned a dishonorable compromise with slavery. . . . It is a contemplation not very creditable to human nature that the cement of common interest produced by slavery is stronger than that of freedom. The slave states have clung together in one unbroken phalanx, and have been victorious by means of deserters from freedom."

can Revolution. But was he right in calling it "morally and politically vicious"? Let those who think so prove that the interests of the American people, the interests of civilization, would have been promoted by a doctrinaire insistence on such a constitution as would have made slavery impossible. It will then be easy to prove that the Northern men who voted for the Missouri Compromise were indeed deserters from the cause of freedom, for the same arguments may be made to apply in both cases. As the members of the convention doubtless thought that the interests of freedom would be promoted by a constitution which made union and government possible even though it tolerated slavery, so the "doughfaces" who voted for the Missouri Compromise had good reasons for thinking that, in the strange way in which good and evil are entangled in this world, it was wiser to take the good of union with the evil of slavery than to give up union for the sake of—what?

John Quincy Adams had no more practical reason to offer for insisting upon the exclusion of slavery from Missouri than that a dissolution of the Union might be followed by its reorganization upon the fundamental principles of emancipation. But to suppose that the slaveholders, who were coming to believe that the contrast between the black slaves of the South and the "white slaves" of the North was in favor of the former, would abandon slavery for the sake of union with the North, was chimerical to the last degree, especially when

to free the negro would have been to create in the Southern states a large class universally regarded, North as well as South, as an extremely undesirable, if not a dangerous, element of society. Indeed, if Northern opinion of the negro had been true, the opinion of Southern men that slavery was a necessary evil would have been hard to refute. It was easy for the North to oppose slavery, since the slave was three fifths of a man when it came to deciding how many members of the House of Representatives a state should have, and since the negro if freed was pretty sure to remain in the Southern states. But with the South the practical question was, since it must have him bond or free, whether he was less likely to prove a nuisance to society as a freeman than as a slave.

Would a dissolution of the Union have been the result of the refusal to admit Missouri as a slave state? There is good reason to think so. John Quincy Adams said that it was reported that when the Missouri struggle was most intense in the Senate, James Barbour "was going around to all the free-state members and proposing to them to call a convention of the states to dissolve the Union, and agree upon the terms of separation and the mode of disposing of the public debt and of the lands."* The probabilities of a dissolution of the Union in the

* Memoirs, V., 13.

event of a persistent refusal to admit Missouri as a slave state were certainly great enough to justify Northern men in voting for the compromise.*

The struggle over Missouri was primarily a struggle for wealth and political power. Either the Southern slaveholder or the Northern laborer must be excluded from Missouri. When the slaveholder was allowed to take his slaves to that state, the Northern laborer was in effect excluded, because he would not go to a state where the laboring man was put on a level with slaves.

Significance of the struggle over Missouri.

Pinckney doubtless overstated the matter when he said that the love of liberty, religion, and humanity had nothing to do with Northern opposition to slavery in Missouri. There is reason to believe, as we have seen, that opposition would have been urged by Southern members on such grounds if Southern opinion had been faithfully reflected in Congress. But that the desire for political power was the controlling cause of Northern opposition is hardly a matter of doubt. Each side wanted the vote of Missouri in the Senate and the House in support of the interests of its section. (It was already clear

* See Schurz's Life of Clay for a statement of the probable consequence of an attempt on the part of the South to secede. In brief, he thinks it would have succeeded because the North did not at that time care enough about the Union to be willing to fight for it, and because, if it had been, it would probably have been unable to compel the South to stay in the Union.

that those interests tended to diverge.) The day when any considerable number of Northern congressmen would oppose slavery as an institution which treated *men* as *chattels,* which put beings with a capacity to look "before and after" on a level with beasts, was still far in the future.

CHAPTER XXV.

THE FINANCIAL CRISIS OF 1818–19.

DURING the struggle over the admission of Missouri, the country was staggering under the burden of a terrible financial crisis. On August 7, 1819, Niles said that twenty thousand people were seeking employment in Philadelphia alone, and that probably thirty thousand more were idle or only partly employed in Baltimore and New York. Land in Pennsylvania which in 1815 sold for $150 an acre sold for $35 an acre in 1819. The rent of a house in Philadelphia fell from $1200 to $450; fuel from $12 to $5.50; flour from $10 to $4.50. Workmen were glad to get employment on half time and at a low rate of wages.

Hard times in 1819 and 1820.

Benton says: "The years of 1819 and 1820 were a period of gloom and agony. No price for property or produce, no sales but those of the sheriff, no employment for industry, no demand for labor, no sale for the products of the farm, no sound of the hammer but that of the auctioneer. Stop laws, property laws, replevin laws, stay laws, loan-office laws, the intervention of the legislature between the creditor and the debtor,—this was the business of

Benton's description.

legislation in three fourths of the states of the Union, of all south and west of New England."*

Report of a committee of the Senate of Pennsylvania.

A committee appointed by the senate of Pennsylvania to inquire into the causes of the general distress reported in January, 1820, that in many cases lands and houses had been sold at less than a half, or a third, or even a fourth of their former value; that forced sales of merchandise, household goods, farming stock and utensils, were frequent at prices far below the cost of production; that there were numerous bankruptcies among the agricultural and manufacturing as well as among the mercantile classes; that the suspension of labor was general, and of all large manufacturing operations universal; that business was limited to the mere purchase and sale of the necessaries of life; that the prisons of the state were overflowing with insolvent debtors; that even the wealthy were unable to pay their debts punctually.

John Quincy Adams' testimony.

In May, 1819, John Quincy Adams said: "The staple productions of the country, constituting our principal articles of export, are falling to half and less than half the prices which they have lately borne; the merchants are crumbling to ruin, the manufactures perishing, agriculture stagnating, and distress universal in every part of the country."†

* Thirty Years' View, I., 5. † Memoirs, IV., 375.

Some of the causes of this crisis lie on the surface. The refusal of Congress to recharter the Bank in 1811 led to the creation of a large number of state banks. From January 1, 1811, to January 1, 1815, one hundred and twenty new banks went into operation, adding about thirty millions to the banking capital of the country. This increase was made when the vigorous blockade of our coasts by the British had nearly destroyed our exports, which prevented specie from coming into the country, while the importation of foreign goods, which continued to be considerable, had to be paid for in specie. This led, as we have seen, to the suspension of specie payments in the summer of 1814.

Result of refusal by Congress to recharter the Bank in 1811.

The suspension of specie payments gave loose rein to the avaricious impulses of the state banks. It created a situation in which, owing to the defective banking laws of many of the states, the only capital required to open a bank was money enough to pay the paper-manufacturer and the engraver. With a plentiful supply of paper and the services of an engraver, the banks could manufacture "money" in the form of bank-notes to any extent they pleased. Specie payments being suspended, there was no necessity to have in the bank real money to pay the notes of the bank when they were presented.* It was

Effect of the suspension of specie payments on the state banks.

* By "real money" is meant a medium of exchange which represents actual values.

possible to redeem bank-notes whose only value consisted in the paper they were printed on, with other bank-notes of the same character. Under such circumstances, success in banking, in the case of unscrupulous bankers, depended on their skill in inducing people to borrow their so-called money, and pledge the borrowers' real property, houses, lands, or household goods, for its payment.

Report of a committee in New York.

The report of a committee appointed by the legislature of New York in 1818 gives an interesting account of some of the schemes to which unprincipled bankers resorted to get their notes into circulation.* Sometimes they placed a small amount of real money in a distant bank to redeem their notes when they were presented, in order to give their bank a reputation; sometimes they lent large sums conditionally: to some on the condition that the borrower keep in circulation certain notes (which were designated by a private mark) for a given time, the borrower to be charged a specified percentage on the notes in case they were returned sooner; to others on condition that the borrower repay the bank at the time agreed upon with what was called "current money," by which was meant the notes of those banks whose reputation caused their notes to be accepted all over the state; and to still others on condition that the borrower, in case he wanted,

* Niles, 15, 39.

say, one thousand dollars, exchange with them (the bankers) the notes of other banks for their notes to the amount of one thousand dollars. In other words, in order that he might borrow a thousand dollars it was necessary for him to have a thousand dollars of comparatively good money to begin with. Upon condition that the borrower give the bankers this thousand dollars in exchange for a thousand so-called dollars in their bank-notes, they would lend him an additional thousand dollars on security.

We learn from the same report that those unprincipled bankers knew how to punish men who ventured in any way to insinuate any doubts as to the value of their money. In one instance, the board of directors of a village bank passed a resolution that no man should hold a seat at that board, or receive any discounts at that bank, who should trade at a certain store in the village. The owner of the store owed a debt in New York City. As his creditors would not accept the notes of the village bank, where he had an account, he asked it to give him "current money" with which to pay his debt. This was the offence for which he was to be boycotted into ruin!

The report concluded with a brief examination of the foundation on which the money of the state was based. It declared that the circulating medium of the state consisted "principally of the notes of those banks whose nominal capitals are small and composed prin-

cipally of the notes of the individual stockholders. So that the security of the public consists of the private fortunes of individual stockholders, and those fortunes, in a great measure, of the stock of the bank for which they had given their notes; so that the bank is enriched by holding their notes, and they are enriched by holding the notes of the bank." What an easy way for two men to get rich! A gives B his note for a million, and B gives A his note for the same sum. Men whose fortunes consisted in the stock of a bank had paid for that stock with its own notes. The bank had nothing but the credit of its stockholders, and the stockholders had nothing but the credit of the bank. When such stockholders induced people to give their property in security for the notes of their banks, they got something for nothing.

Effect of cheap money.

With money as cheap as paper, with "wildcat" banks springing up everywhere and holding out all sorts of inducements to the credulous and unwary to borrow their "money," it is needless to say that "money" was plentiful. Men who could borrow money on such easy terms were certain to do it, especially when they were assured that they could repay it at their convenience, and when a feeling of universal prosperity made every one confident that his gains would enable him to pay his debts with ease.

The thing moved in a circle. The "wildcat" banks tempted men to borrow "money"; the abundance of money led to high prices; the high prices created a feeling

of prosperity; the feeling of prosperity a demand for more "money"; the more money, the more apparent wealth; the more wealth, the more universal the hope of wealth and the greater the demand for capital with which to realize these hopes. Is it any wonder, then, that "farms yet uncleared" were mortgaged, that "crops yet unsowed" were pledged, that men all over the country were seized with the fever of speculation? Is it any wonder that state after state created new banks until in 1818 there were three hundred and ninety-two?

From this point of view it is easy to see how it happened that directly upon the heels of the suspension of specie payments and the close of the war there came a period of great apparent prosperity, of a general and great rise in prices. The committee of the senate of Pennsylvania, a partial abstract of whose report has already been given, connecting the suspension of specie payments with the large increase in the number of banks which resulted from the dissolution of the Bank of the United States in 1811, said: "In consequence of this most destructive measure, the inclination of a large part of the people, created by past prosperity, to live by speculation and not by labor was greatly increased. A spirit in all respects akin to gambling prevailed. A fictitious value was given to all kinds of property. Specie was driven from circu-

Why the suspension of specie payments was followed by a period of apparent prosperity.

lation as if by common consent, and all efforts to restore society to its natural condition were treated with undisguised contempt."*

But when the reaction came, as it shortly did; when men came to their senses and found that real money was required to lift mortgages on farms and houses and land which had been bought at fictitious values, what distress, what despair ensued! For they had borrowed cheap money and had to pay in dear; had given their notes for property at fictitious values and had to pay them in real values; had bought farms for three times their worth in real money and had to pay for them in real money.† The crisis of 1819 inevitably followed, for at that time property ceased to have a fictitious value.

Unfortunately the Bank of the United States seemed to multitudes of people to be the cause of their ruin.

State of the currency before the Bank was created.

The Bank was created, it will be remembered, to supply a medium of exchange. Thomas, in his Reminiscences, gives a vivid

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* Sumner's History of American Currency, 79.

† It is by no means contended that the operation of other causes did not contribute to intensify the crisis. The return to specie payments in England, and the payments of large amounts of the French Indemnity Loan in 1818 and 1819, increased the demand for gold and silver, and this made prices lower all over the world.

Moreover, many manufacturing establishments failed after the war because they were not able to compete with English

illustration of the disorders of the currency at that time: "Such was the state of the currency that in New Jersey I met with an instance where a one-dollar note I had taken in change, which was current on one side of a turnpike gate, would not pass at one hundred yards' distance on the other side."* A similar condition of things existed all over the country outside of New England at the close of the war. In every town or county there was some one bank whose notes were taken as the standard by comparison with which the value of the notes of other banks was determined. It was in order to get money which would have the same value not only on both sides of a turnpike, but all over the country, that the Bank of the United States was created.

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goods at the prices at which the latter were sold. The English, hoping to throttle in the cradle the young manufactures which had grown up during the war, poured into this country immense quantities of goods and sold them at auction. The tariff of 1816 was intended to save these young industries, but in many cases it failed to do it.

These various causes doubtless contributed to make the crisis of 1819 more severe. But the argument of the text is that the issue of irredeemable paper and the consequent rage for speculation would have produced a crisis if we had been separated from every other country in the world by seas of fire. This conclusion receives further support from the fact that New England passed through the crisis of 1819 with comparatively little injury, because the banks of that part of the country did not suspend specie payments.

* Vol. II., 84.

It was organized November 1, 1816. In March of the same year, Secretary Dallas had written to a committee of Congress urging that body to forbid the treasury to accept any currency except specie or its equivalent, and to lay a heavy tax on any bank-notes which were not redeemable on demand. But too many members of Congress were interested, directly or indirectly, in the banks to make such legislation possible. Instead of complying with Dallas' request, Congress passed in April, 1816, a resolution requesting the Secretary of the Treasury to take measures as soon as possible to secure payment in specie, or United States Bank notes, or treasury notes, or *notes of specie-paying banks,* and declaring that nothing else ought to be received after February 20, 1817. This seems at first sight in substance the resolution asked for by Dallas; but there was a great difference between specie or its equivalent, and the notes of banks which pretended to resume specie payments.*

Dallas' recommendation to Congress in relation to specie payments.

The response of Congress.

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* Niles' Register abounds in details of the methods employed by these "paper-mongering" banks to impose upon the public. "A person this day [January 9, 1819] paid us," he writes, "a note which he received as having been issued in Philadelphia, and so it was; but, unfortunately for him, it was 'New Philadelphia,' the 'New' printed very small, and the 'Philadelphia' very large." — Niles, 15, 361.

In order to bring about a resumption of specie payments as soon as possible, Dallas issued a circular, July 22, 1816, asking the banks, especially those of the Middle states, to agree to his publication of a notice that he would not receive after October 1 the notes of any bank which did not pay its notes for five dollars or less in specie, and that after February 20, 1817, the treasury would receive nothing except the notes of the Bank of the United States, or treasury notes, or notes of specie-paying banks, according to the resolution of Congress passed the preceding April. The banks of New York, Philadelphia, and Baltimore having refused to consent to such a publication, Dallas decided to act without their aid. On September 12, 1816, he published a notice that after February 20, 1817, the treasury would receive no currency except that which had been approved by the resolution of Congress in April.

Dallas' circular to the banks.

After the so-called resumption of specie payments, the bank of the state of North Carolina required persons who wished to exchange its notes for specie to take an oath that the notes had not been bought for the purpose of making the demand. The bank of Darien, Georgia, improved on this method. It required the person presenting the notes to take an oath in the presence of at least five directors and the cashier that the notes were his own. If these officials could not be got together, it refused to give specie for its notes. — Sumner's History of American Currency, 80.

On January 28, 1817, his successor, W. H. Crawford, issued a circular to the banks of Pennsylvania, Delaware, and Maryland, stating that the Bank of the United States had been authorized to receive the moneys belonging to the United States which had been deposited in those banks. The latter, in order to retain the deposits as long as possible, entered into an agreement with the Bank to resume specie payments February 20, 1817, and the Bank agreed not to call on them for balances until it should have discounted certain specified sums for people living in New York, Philadelphia, Baltimore, and Virginia. Hence it happened that on February 20, 1817, the day fixed for resumption, the notes of the leading banks all over the country were at par.

Agreement between a number of state banks and the Bank.

If it be true, as has been stated, that the cause of the financial crisis of 1819 was that men borrowed cheap money and had to pay back dear, why did not the crisis come in 1817 after the resumption of specie payments? Simply for the reason that resumption of specie payments in 1817 was merely nominal. In order to increase its gains, the Bank of the United States left the chaotic condition of the currency practically undisturbed. A genuine resumption of specie payments did not occur until the winter of 1818–19, and when it did the crash came.*

Why the financial crisis did not come in 1817.

* The account which follows is based on the report of a congressional committee, submitted January 16, 1819, and on

The Bank infringed its charter before it began operations. In violation of the provision that no stockholder was to have more than thirty votes "it was a common and general practice to divide the shares into small parcels, varying from one to twenty shares to a name, held in the names of persons who had no interest in them, and to vote upon the shares thus held as attorneys for the proprietors." In this way, one man in Baltimore, George Wiliams, had 1,172 votes, and the Baltimore branch,* which owned only about one seventh of all shares not owned by the government, had more than one fourth of the entire number of votes. This fraud left the Bank at the mercy of a few unprincipled speculators. Twenty of the twenty-five directors being chosen by the stockholders, they were able to elect such directors as would serve their own dishonest purposes.

How the Bank violated its charter.

A further violation of the charter before the Bank started was thus easily made possible. The charter provided, as has been said, that operations should begin when the second instalment of capital was paid, and that of the $35 per share which was due on this instal-

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the exposition published by Langdon Cheves, president of the Bank, in 1822. Niles, 23, 87, 96.

* Besides the mother bank, located at Philadelphia, a number of branches (the number, at first eighteen, was afterwards increased to twenty-five) were established in various cities of the country.

ment, at least $10 per share should be paid in specie. But when the stock was subscribed, specie was at six per cent premium in the West, and fourteen per cent in Baltimore, Philadelphia, and New York. Accordingly, the directors decided to lend money on stock in order to make it possible for stockholders to pay the specie part of the second instalment without specie. In some cases, indeed, discounts on stock were made to the amount of the whole of the first two instalments. Instead, therefore, of securing $2,800,000 in specie when the second instalment was paid, according to the obligations of the charter, not more than $324,000 was received. The third and last instalment was due July 1, 1817. Of the specie due on this instalment a "trifling amount" was paid. Thus the Bank of the United States, created to supply a uniform currency, at once began to imitate the example of the "rag-money" banks. When a man bought Bank stock and paid for it with money borrowed of the Bank upon this stock as security, the case was very similar to one already supposed, of A's being rich through holding B's notes for a million, and of B's being rich through holding A's notes for the same sum. "The evil of the country was the immense amount of bank-notes and credits; the Bank of the United States increased it by its credit to stockholders." Under such circumstances it was not necessary for a man to have any money in order to speculate in the stock of the Bank. Men bought stock of its owner, gave it to the Bank as security for

money borrowed, and with this money paid both the second instalment due on the stock, and the price agreed upon to the original owner for the first instalment. This made speculation easy. "It gave equal facilities to the bankrupt who had not credit enough to obtain an indorser, and to the capitalist. Stock could be and was purchased without the advance of a single cent by the purchaser. . . . A rise in the market would enable him to sell his shares, pocket the difference, and commence operations anew."

Speculation in Bank stock.

Accordingly, at the end of December, 1816, men who had paid their first instalment were able to sell their stock at an advance of forty per cent; in April, after the second instalment had been paid, at an advance of twenty-four per cent; in August, when all three instalments had been paid, at an advance of forty-four per cent.

Three days after the Bank was in operation it avowedly went into the paper-mongering business. On January 17, the directors voted to issue notes called "post-notes," for loans granted, which it pledged itself to pay in specie, not on demand, but sixty days after date.

The Baltimore branch used its fraudulent votes in the most unscrupulous way. The speculators who controlled it availed themselves of two regulations which the Bank made at the outset: each branch was authorized to issue notes at its own discretion; and each branch was to redeem upon presentation the notes of the others. These reg-

Methods of the Baltimore branch.

ulations gave the Baltimore branch its opportunity. It issued notes lavishly for the benefit of its dishonest stockholders, who sent them to the Northern branches for payment. Between January, 1817, and May, 1818, the amount of notes issued by the Baltimore branch and paid in specie by the Boston branch exceeded the amount of notes issued by the Boston branch and paid in specie by the Baltimore branch by sums ranging from $34,000 to $215,000; between January, 1817, and October, 1818, the excess of Baltimore notes paid in specie by the New York branch averaged more than $1,500,000, and the excess of the Baltimore notes paid by the mother Bank in Philadelphia more than $6,000,000. And all the time that the Baltimore branch was thus draining the Northern branches of their specie, its drafts on those branches "continued uninterrupted and excessive." From April, 1817, to November, 1818, these drafts amounted to more than $6,000,000.

Frauds of the Baltimore branch.

That such dishonesty should culminate in downright fraud was to be expected. Langdon Cheves, describing the condition of the Bank when he became president of it in March, 1819, said: "In the office at Baltimore, of which James A. Buchanan was president and J. W. McCullough was cashier, there were nearly three millions of dollars discounted [?] or appropriated without any authority, and without the knowledge of the board of the office or that

of the parent Bank. The firm of S. Smith & Buchanan (of which firm J. A. Buchanan was a member), J. W. McCullough, and George Williams had obtained of the parent bank, in the regular and accustomed way, discounts to the amount of $1,957,700 on a pledge of 18,290 shares of the stock of the Bank. These men, without the knowledge of either board, and contrary to the resolves and orders of the parent Bank, took out of the office at Baltimore, under the pretence of securing it by pledging the surplus value of the stock, already pledged at the parent Bank for its par value and more, the sum of $1,540,000. . . . The losses sustained at the office at Baltimore alone, the great mass of which grew out of this fraud and others closely connected with it, have been estimated at the immense sum of $1,671,221."

Under such management the Bank of the United States of course made no effort to establish a uniform currency. On May 17, 1817, Niles wrote: "Though our banks ostensibly pay specie, it is almost as rare as it was some months ago to see a dollar." October 1: "Though the Bank of the United States and its branches have had a considerable effect to equalize the exchanges of moneys between different places, still the people are inundated with paper called bank-notes at almost every depreciated rate, one half to seventy-five per cent."

Resumption of specie payments merely nominal.

A report submitted to Congress in 1819 tells us how it happened that this inundation of depreciated bank-notes continued after the resumption of specie payments. That report declares that the Bank and its branches accepted notes of the state banks which they knew "would not be redeemed in specie," in order to accumulate a fund upon which interest might be charged. On October 14, 1817, the president of the Bank, William Jones, ordered the officials of the branch in Lexington, Ky., "to cease to issue the paper of other banks from your office, and when the notes of any of the banks in your vicinity have accumulated in your vaults to the sum of $20,000, you will demand payment in specie" or in bills of exchange, "and if the demand shall not be satisfied, you will cease to receive the notes of any such bank unless it shall engage to pay interest and liquidate the balance in a reasonable time."*

Why depreciated bank-notes were still in circulation.

The Bank of course did not accept the notes of the paper-mongering banks without discrimination. Shortly after it began operations, by an arrangement with the Secretary of the Treasury it selected not only the state banks in which the money of the government should be deposited (in the cities in which the Bank had no branch), but also those whose notes should be received on account of revenue. Assuming that it was the notes of these two

The Bank discriminates in favor of certain state banks.

* House Report, No. 92, 94.

classes of banks which the Bank allowed to accumulate in its vaults and in those of its branches, its action in this particular had a bad effect in two ways: first, although the Bank had discriminated between the banks of the country, it had given the general public no means of doing so, since it had not insisted upon the application of the only safe criterion, the redemption in specie upon presentation of the notes of the banks which it accepted; secondly, its action, by tempting banks in whose favor it discriminated to issue notes beyond their means, tended powerfully to diminish their credit. It was not only failing to give the country a uniform currency, it was increasing the evils of inflation and consequent depreciation.

As has been said, the reason why the crisis of 1819 did not come in 1817 is that the Bank made the resumption of specie payments merely nominal. "Moneys" of all degrees of value continued to circulate, and no criterion existed to enable people to distinguish between them. If the Bank had refused to accept the notes of banks which it knew would not be paid in specie on demand, and if it had refused to allow the notes of specie-paying banks to accumulate in its vaults until it was burdensome for the bank that issued them to pay them in specie, the crisis of 1818–19 would have come in 1817. But the crisis would have been less severe if it had come in 1817. Those who from 1817 to the autumn of 1818 were tempted into speculation would have been saved. Kentucky, for ex-

The crisis would have been less severe in 1817.

ample, chartered thirty-nine new banks in 1817, and those who were enticed into ruin by these banks might have escaped if the Bank of the United States had done what it was organized to do.

Falling off in the revenues of the government.

The distress of the country resulted in a decided falling off of the revenue of the government. In a time of peace with all the world, the government was obliged to borrow money to pay current expenses. On May 15, 1820, a loan of three millions of dollars was authorized. The next year the treasury was still in arrears. So anxious was Congress to economize that a clerkship in the office of the Attorney-General paying only eight hundred dollars was abolished; an elaborate system of coast defence—one of the results of the War of 1812—was interrupted; the regular army was reduced from 10,000 to 6,000 men; the annual appropriation provided in 1816 for the increase of the navy was reduced from one million to five hundred thousand dollars. By such means the expenses of the government were reduced to less than nineteen millions a year. Even after this retrenchment it was necessary to authorize a loan of five million dollars.

Change from the credit to the cash system in selling the public lands.

The hard times brought about a change in the method of selling the public lands. When Congress met in November, 1820, the debt to the government for public lands amounted to twenty-three millions of dollars. The land had been sold at a minimum price of two dollars per acre, one

fifth in cash and the remainder in four annual instalments, with forfeiture of all that had been paid if the successive payments were not made when they became due. In the period of financial intoxication, when every one was confident that he was going to get rich, men used all the money they could raise in paying the first instalment on purchases of land, in the expectation that their gains would enable them to pay subsequent instalments as they fell due. But when the crash came and their imposing air-castles vanished, they found themselves hopelessly in debt to the government, with the prospect of losing the instalments they had already paid unless the government came to their relief.

Crawford, the Secretary of the Treasury, suggested a change from the credit to the cash system in disposing of the public lands, and that the minimum price be reduced to one dollar and twenty-five cents an acre. He also proposed to give present debtors the benefit of the system by allowing them to relinquish all of the land they had bought except one tract, and let what they had paid on the whole apply on that, estimating the price they were to pay for it at the reduced rate. A law was passed in harmony with his suggestion.

CHAPTER XXVI.

THE BANK AND THE STATES.

THE policy of the Bank in keeping the notes of the state banks as an interest-bearing fund promoted the interest of the state banks, since it greatly diminished the amount of notes which the state banks were obliged to make a pretence of paying in specie. It not only enabled them to escape the necessity of paying those particular notes in specie, but it gave them a reputation for solvency which made it possible for them to avoid paying other creditors in specie.

Advantage to the state banks of the policy of the Bank.

But this policy, while it tended to perpetuate the disorders of the currency, helped at the same time to drain the Bank of its specie. Instead of requiring the state banks to redeem their notes in specie, the Bank kept their notes as an interest-bearing fund and circulated its own notes in their place. As these notes were constantly being presented at the mother Bank and its branches for redemption in specie, the specie of the Bank was flowing out in a steady stream to redeem the notes which were put in circulation in the place of the notes of the state banks. This vicious policy, therefore, diminished the specie of the Bank in two ways: it prevented the notes of the

Policy of the Bank helped to drain it of specie.

state banks from being changed into specie, and it compelled the Bank to pay out specie for the redemption of the notes which were put in circulation in the place of the notes which it kept as an interest-bearing fund.

The unwisdom of this policy ought to have been the more evident in view of the practice of the Bank in lending money to its stockholders without any other security than their stock. In January and February, 1818, the amount of money discounted on Bank stock was more than $11,000,000. Directors elected by fraudulent votes naturally permitted these discounts to be renewed for the most part when they fell due. In view of the fact that the directors were themselves stockholders and speculators in stock; that George Williams with his 1172 votes was a director; that William Jones, the president of the bank, was a large stockholder and speculated extensively in the stock of the Bank; that the directors passed a resolution to lend money to the amount of the full par value of the stock on the stock as security,—which was in effect a vote of the whole body to lend money to themselves individually,—it is all the more a matter of wonder that their greed for money was able to prevent them from seeing how dangerous it was to permit the state banks to possess themselves to such an extent of the specie which stood between the Bank and bankruptcy. For these speculating directors knew that whenever their own operations required the use of specie, the specie was forthcoming.

Large sums lent by the Bank to stockholders.

And whether they actually got gold and silver or bank-notes from the Bank was of no consequence, since the men with whom they transacted business converted the notes of the Bank into specie whenever it was to their interest to do so.

Early in the summer of 1818, the Bank was found to be in a critical condition. The Secretary of the Treasury had written to its president that the whole of the government deposits, amounting to more than $5,000,000, would be withdrawn before the end of the year to pay a part of the Louisiana debt. With the prospect of an immediate deprivation of this large sum, with the state banks in debt to the Bank to the amount of $4,445,000, with eight or nine millions of the capital of the Bank tied up in what was practically a permanent loan to the directors, it was painfully evident that something must be done. The president of the Bank seemed to think, amusingly enough, that the way to relieve it of the consequences of its own criminal mismanagement was for the government to keep its money in the Bank instead of paying its debts. He therefore wrote to Crawford, saying that the Secretary of the Treasury had "prepared a crisis" by announcing that he proposed to use the money of the government to pay its debts. But Crawford refused to take that view of the situation. The directors were accordingly obliged (July 20) to order a reduction of loans to the amount of $5,000,000, and to pass resolutions

Government deposits amounting to five millions withdrawn.

to compel the banks in the District of Columbia to pay their debts to the Bank.

At a later meeting of the directors (October 30), "a steady perseverance in the curtailment of discounts," and "a vigorous enforcement of the payment of the debts due by state banks," were resolved upon. It was also determined to cease receiving, either in payment or on deposit, as cash, the notes of all banks that did not make satisfactory arrangements for the payment of their debts to the Bank in a short time. Not long after this a number of Cincinnati banks, when called upon by the Cincinnati branch for the money due to the Bank, suspended specie payment.

Steps taken by the Bank to escape bankruptcy.

Though the curtailment of discounts was made for the most part, "it fell in almost all cases on business paper, while the immense amounts loaned on stock pledges were but little affected, excepting at the offices at Richmond and Washington." The directors and stockholders continued to borrow money as before!

But the reduction of loans was made of little or no avail in curtailing the business of the Bank in many of its branches, through an artifice to which they resorted—i.e., the drawing and redrawing what were called race-horse bills, one branch drawing on another for $1000, for example, and this branch paying the draft with a draft on a third.

Race-horse bills.

The debts due in Kentucky and Ohio, instead of being reduced, were actually increased by more than $500,000, although they amounted before to more than $6,000,000!

In March, 1818, the Boston branch found itself in a critical condition in consequence of the notes and drafts issued by the Southern branches. The abuse of the privilege of issuing notes by the speculators who controlled the Baltimore branch (the same abuse was only less flagrant at Philadelphia) compelled the Boston branch to choose between refusing to pay the notes of the Southern branches and the imminent risk of failure. In March, 1818, it decided upon the former, and in the following August the board of directors of the Bank voted that branch notes should be redeemed only by the branch which issued them.

Condition of the Boston branch in March, 1818.

Bank decides to pay no branch notes except at the branch which issued them.

When this action of the Bank was made public, its stock fell from 160 to 120. Expressions of indignation were heard in every part of the country. Niles said: "It was that we should have what was called a national currency that the constitution was exceedingly strained, if not sensibly violated [in chartering the Bank], and what has already happened? In two short years, the last vestige of a balance in favor of the people for the immense advantages given to very 'Beelzebubs' in speculation is wrested from them with a degree of impudence equalled only by

Effect of this decision on the public.

its violation of every principle of common justice, if not of common honesty."*

A letter from the president of the Charleston branch illustrates the effect of the demand upon the state banks for the payment of their debts to the Bank. "Our notice to them [the state banks] that they must reduce their balances, and that we would call for specie, increased the alarm. This want of available funds is increased by reaction, for, the planter being unable to sell his crop, the merchant is thereby disappointed in his well-founded expectation of payment for credit and advances; so that merchants, planters, and tradesmen are all pressing their applications to us with such importunity that they cannot be resisted. These embarrassments are all charged to us. We are accused of hostility to the other banks, and of oppressive drafts upon them for their specie capital. The sensation excited is great in proportion to the wants and disappointments of each individual. The other banks encourage the impression, and we understand that the banks of the state will apply to the legislature now in session to tax or otherwise embarrass us. Besides this, the solvency of some houses otherwise safe becomes questionable; and the banks, if called on too hastily for specie, will no doubt unite to refuse, and rely on the confidence of the community as their shield."†

Effect of the demand on state banks to pay their debts to the Bank.

* Niles, 15, 25, 26. † House Report No. 92, 36.

In the autumn of 1818, the Bank notified the Treasury Department that it would no longer receive from the land offices except on special deposit anything except its own notes and specie. Shortly after this many of the Western banks suspended payment.

On November 25, 1818, J. C. Spencer of New York offered a resolution in the House of Representatives that a committee investigate the affairs of the Bank. The committee reported in January that the Bank had violated its charter in four particulars; two of them we have already had occasion to notice—that specie was not paid in the second and third instalments as the charter required, and that stockholders were allowed to cast more than thirty votes. A third was that dividends had been paid to stockholders who had not paid the instalments on their shares; the fourth, that the Bank had bought $2,000,000 worth of public stocks, although such purchases were forbidden by its charter.

Charter of the Bank violated in four particulars.

Spencer, who presented the report of the committee, moved to withdraw the public deposits from the Bank, to refuse to receive its notes at the treasury, and to order the Attorney-General to take steps to have its charter revoked unless in a number of important particulars amendment thereof should be agreed to by the Bank. His motion did not prevail. The opponents of the Bank declared that more than forty members of Congress were stockholders.

Motion to recharter the Bank.

Upon the publication of this report, the stock of the Bank dropped to 93, and Jones resigned. A few days later (March 6, 1819), Langdon Cheves was chosen president. In the exposition already referred to, Cheves made a detailed statement of the condition of the Bank when he became president. At the parent bank "all the funded debt which was salable had been disposed of and the proceeds exhausted. The specie in the vaults at the close of the day on the 1st of April, 1819, "was less than $54,000 more than the debt due to the banks of the city." On the 12th of the same month, the Bank had in its vaults but $71,522, while it owed to the city banks a balance of $196,415, and this in the face of the fact that only two years before $7,000,000 in gold and silver had been imported. There was on the way, however, $250,000 from Ohio, and a little more than that sum was in the mint.

Condition of the Bank in the spring of 1819.

The condition of the branch at New York was almost as bad, and of that at Boston "a great deal worse." At the same time, the Bank owed nearly $900,000 which it was bound to pay immediately and which was equivalent to a charge upon its vaults to that amount. Besides, including the notes of its officers, it had a circulation of $6,000,000 to meet. No one in Philadelphia believed that the Bank would be able to continue its payments much longer.

As soon as Cheves took his seat as president a meeting of the board of directors was called. But the danger was too pressing and too great to permit him to sit with his hands folded until the board could get together. He at once ordered the Southern and Western branches not to issue their notes, and refused to permit the Bank to continue to purchase and collect exchange on the South and West. At the meeting of the board, April 9, a number of measures were unanimously agreed upon in order to prevent, if possible, "the calamity of a currency composed entirely of irredeemable paper money."

Steps taken to avoid bankruptcy.

These measures struck at the root of the evil. The Southern and Western branches were forbidden to issue their notes when the exchange was against them. The various offices of the Bank were ordered to collect the moneys owed them by the local banks. The curtailment of loans already ordered was to be continued. It was also resolved to obtain a loan from England to an amount not exceeding $2,500,000. The notes discounted on stock were also gradually called in, which made available eight or nine millions of the capital of the Bank that had been tied up in what had been in effect a permanent loan. (The removal of the president and secretary of the Baltimore branch, and the resignation of a number of directors who were implicated in their dishonesty, made it possible for the Bank to take this action.) "These measures lifted the Bank in the short space of seventy

days from the extreme prostration which has been described to a state of safety."

But the measures which saved its life in 1819 destroyed it in 1836. The crisis which ought to have come in 1817 and was imminent in the fall of 1818 was precipitated when Cheves began to carry out his plans. The people upon whom in every country the burden of hard times presses most heavily are the laboring masses; and many who had by much self-denial saved up small sums against a rainy day were now obliged to see them swept away by the torrent of disaster which deluged the entire country, believing to the end of their lives that the Bank was the cause of their ruin. The ruin of some of them indeed was caused by the willingness of unscrupulous directors that the children of the poor should go hungry in order that they themselves might get rich.

A crisis precipitated.

The state banks, whose lavish issue of paper "money" was the chief cause of the crisis, did everything in their power to diffuse the belief that the "monster" was responsible for it. A published statement of the directors of a bank in Cleveland, made May 23, 1818, illustrates the way in which the state banks presumed on popular dislike of the Bank. The Cleveland bank had refused to pay a draft made upon it by the United States Bank. "The reasons of the refusal are that we consider the United States Bank little better than a great broker's office whose

Statement published by a Cleveland bank.

sole object is to make an unjust speculation on the circulating medium of the country, and to ruin all other institutions, regardless of the injury and distress which it may occasion the community."* The Bank is a great broker's office; therefore we refuse to pay it what we owe it! A community which appreciated the force of that sort of reasoning must have been utterly blinded by hostility to the Bank.

Reasons for hostility to the Bank before the crisis.

There were doubtless three reasons for dislike of the Bank before Cheves' administration of its affairs precipitated the crisis: first, the jealousy of an aristocratic institution which is commonly manifested towards rich corporations in a democratic community; secondly, the pressure which the Bank from the start brought to bear more or less strongly on the utterly fraudulent banks which were so shamelessly pushing their "money" into circulation; and thirdly, the violation of its charter and the fact that the Bank was controlled by speculating directors, which facts were known and denounced by some of the papers of the time as early as February, 1818.†

Attempts to tax the Bank.

The first attempts to tax the Bank were due to hostility to it on these grounds. Kentucky and Maryland passed laws in February, 1818, imposing a tax upon the Bank. A year later, Ohio passed a law imposing a tax of $50,000 on

* Niles, 14, 331. † See Niles, *passim*.

each branch of the Bank in the state, and requiring the auditor to direct any one he pleased to seize the notes or specie of the Bank if payment was refused. In January, 1818, a petition was presented to the Pennsylvania legislature asking that body "to annihilate the charter of all the banks of the commonwealth, to make the property of the stockholders liable for the debts of the company, and to tax the Bank of the United States and its branches."

These attempts brought the Bank into direct collision with the governments of the states. In the case at law which resulted, a case which became famous through the decision of the Supreme Court,* the attempt to tax the Bank was held to be unconstitutional by that tribunal. The court held that Congress had a right to charter a national bank and establish branches, on the ground that it had a right to employ any means, in attaining the ends authorized by the constitution, which the constitution did not forbid. But if it had that right, it followed that the states had no right to tax the branches, because by means of taxation they might drive the branches out of existence and thus prevent Congress from exercising its constitutional powers.

The decision of the Supreme Court.

* McCulloch *vs.* Maryland.

This decision was rendered in March, 1819. Ohio immediately defied it. In accordance with the law passed in February of the same year, the auditor, Ralph Osborne, issued in September a warrant to John C. Harper commanding him to collect the tax of the branch at Chillicothe. Harper appeared at the bank and demanded payment. When it was refused, he entered the vault, seized such specie and notes as he found, and carried them away. The bank brought suit against the auditor, which was decided by the Supreme Court in its favor in 1821. But before it was decided, the legislature of Ohio took action in the case. A committee appointed in December, 1820, to consider the report of the auditor took very advanced ground in favor of states' rights. "The question," said the committee, "whether the federal courts are the sole expositors of the constitution . . . has been settled by an authority from which there can be no appeal — the authority of the people themselves. As early as 1798, the passage of the Alien and Sedition laws, and certain decisions in the federal courts recognizing the obligatory force of the common law, made an expression of popular opinion on this question necessary, and such an expression was sent forth by Kentucky and Virginia. These famous resolutions and the answers of the co-states were a direct and constitutional appeal to the states and to the people on the great questions at issue. . . . The people in

Ohio defies the decision.

Constitutional doctrine of the Ohio legislature.

1800 affirmed the doctrine of Kentucky and Virginia by effecting a total change in the administration of the federal government. Such high authority and the clear right in the case impose a duty on Ohio from which she cannot shrink without dishonor. So long as one constitutional effort can be made to save them, she ought not to surrender her rights to the encroaching pretensions of the circuit court." The legislature passed a resolution (January 1, 1821) affirming the doctrines of the Kentucky and Virginia resolutions by a vote of 58 to 7, and unanimously declared a determination to tax any corporation doing business in Ohio under the authority of the United States.*

Ohio attempts to nullify a law of the United States.

On January 29, 1821, a law was passed "to withdraw from the Bank of the United States the protection and aid of the laws in certain cases." After September 1, 1821, the law forbade the taking into custody of any debtor on suit of the Bank, or any person committed for offences against its property. No officer was to take proof of a deed to which the Bank was a party, and no recorder was to record such deeds. The law was a direct attempt to nullify a statute of the United States which had been pronounced constitutional by the Supreme Court. It was repealed January 18, 1826.

* Niles, 19, 339.

Examination of the doctrine of the Ohio legislature.

The action of the Ohio legislature is worthy of note in a number of respects. It is evidence that another powerful interest was being raised against the Bank—the states' rights interest. In the opinion of its enemies, the Bank had not only oppressed the people, it had arrayed itself against the authority of the states. When the Bank came to ask for a renewal of its charter, this interest would be sure to be heard from. But perhaps the most significant thing about the action of the Ohio legislature was the constitutional doctrine to which it subscribed with such unanimity. That doctrine asserted that there was a court which had the right to overrule the decisions of the Supreme Court—the people. The doctrines of the Kentucky and Virginia resolutions, according to the legislature of Ohio, were established. Why? Because the Republicans carried the presidential election of 1800! The Ohio legislature did not undertake to point out the clause in the constitution which gave the people the right to overrule the decisions of the Supreme Court. It did not attempt to explain the methods by which such a power, if it existed, could be used so as not to be perverted to the ends of unscrupulous politicians. No line of the report undertook to prove that the issue of 1800 was the Kentucky and Virginia resolutions and these alone. But unless this was the case,—if there was any other issue, the victory of the Republicans in 1800 might have occurred in spite

of the resolutions of 1798, not because of them. To create a power unknown to the constitution to set aside the decisions of the tribunals created by it was a grave enough matter. But to interpret the decisions of this power in such an arbitrary manner was worse. A referendum in which the decision of the people could be claimed with equal propriety by either party on any one of a half-dozen questions was surely a novelty in government.*

Attempt to amend the constitution.

The conflict between the states and the federal judiciary led to an attempt to amend the constitution so as to give the Senate the right in such cases to set aside the decisions of the Supreme Court. Richard M. Johnson, who introduced the amendment in the Senate in January, 1822, made a frank statement of his reasons. His state had two years before incorporated a unique institution called the "Bank of the Commonwealth of Kentucky." The only real capital the bank ever had was $7000 appropriated to buy books, paper, and plates for printing the notes. It was to issue $2,000,000 in notes, which, according to a law passed in 1820, were to be lent to those who needed

Bank of the Commonwealth of Kentucky.

* Why, for example, might not the Hamiltonian Federalists, with equal propriety, have claimed that the election of 1800 was a decision of the people against Adams, or the followers of Adams that it was a condemnation of the methods of Hamilton? Why could not the Republicans have claimed that it was an expression of disapprobation of the *quasi* war against France?

them "for the purpose of paying his, her, or their just debts"; according to a law passed in 1821, to those who would take oath as to the purpose for which they wanted the loan, provided the purpose was deemed commendable! Surely that was a novelty in banking! To require borrowers to prove, not that they had ability to pay, but that they were financially embarrassed! The fear that the Supreme Court would declare this bank unconstitutional was one of the reasons which Johnson avowed for introducing his amendment. "Kentucky," he said, "has incorporated a bank for necessary purposes; the crisis of the country demanded it, and the people have sanctioned it with a unanimity almost unparalleled. If the constitutionality of this subject were brought before the federal judiciary, I have little doubt that the law would be declared null and void."* Could the mandate of the people set aside the laws of political economy, as well the provisions of the constitution?

Forces allied against the Bank.

Two great forces, then, the debtor classes all over the country—who looked upon the Bank as the cause of all their troubles—and the advocates of state sovereignty, entered into alliance against the Bank. This powerful combination not only eventually sealed the fate of the Bank, it paved the way for the disruption of the Democratic or Republican party. When in the course of time self-interest or

* Annals of Congress, 1821–1822.

patriotism led to the advocacy of measures requiring a broad interpretation of the constitution, the division of the Democratic party into two organizations, the one representing the Hamiltonian, the other the Jeffersonian, view of the constitution, was invevitable.

CHAPTER XXVII.

THE MONROE DOCTRINE.

NO nominations for President and Vice-President were made in 1820. A congressional caucus was summoned in April, but as only forty attended it was deemed inexpedient to take any action. Monroe was re-elected without opposition. Of the 231 electoral votes he received all but one, which was cast for John Quincy Adams. Tompkins, who was elected Vice-President, received 218 votes.

Monroe re-elected.

In May, 1822, a bill passed both Houses of Congress appropriating $9000 for repairing the Cumberland Road, and providing for the erection of toll-gates and the collection of tolls for keeping the road in repair. On May 4, Monroe returned the bill with his veto, and the same day he transmitted to Congress an elaborate exposition of his views on the subject. He thought that the bill assumed that the government had authority "to adopt and execute a complete system of internal improvements"—which he regarded as inconsistent with the sovereignty of the state.

Examining the arguments which the advocates of the alleged right of the government based on the various clauses of the constitution, he contended that the grant

to establish post-roads only conferred the right to determine the routes by which the mails were to be carried, not to construct roads. Nor could this right be deduced from the grant to declare war, since it was impossible to believe that Congress had authority to cover the entire country with a network of roads and canals without the consent of the states through which they passed,—which would be the case if Congress could make such roads and canals as would be useful in waging war. Nor was the right conferred by the power to regulate commerce, since this was only an authority to impose duties and imposts on articles imported from abroad. Nor was it conferred by the general-welfare clause. To say that Congress could do anything it pleased to promote the general welfare was to deny that any barriers existed between the states and the general government, was to give to the general government all the powers exercised by the states. But although Congress could not do anything it pleased to promote the general welfare, it could appropriate money for any object which promoted the well-being of the people.

Monroe made an elaborate review of the acts of the government in relation to the opening of roads in order to show that the measures of Congress in relation to this subject were in harmony with his view of the right of appropriation. The Cumberland Road, the construction of which had cost $1,800,000, was the only work

which had been undertaken by the government that could give rise to any question as to the respective powers of the state and general governments.

Before beginning this road, consent had been obtained of the legislatures of Maryland, Pennsylvania, and Virginia, through which states it was to pass. The legislatures of these states had passed acts approving the route and providing for the purchase and condemnation of the land. The United States had exercised no right of sovereignty or jurisdiction within either of the states—by taking land, for example, by eminent domain, by passing acts for the protection of the road, or for raising a revenue from it by the establishment of turnpikes and tolls. All that the government had done had been done on the voluntary and unequivocal admission that the sovereignty belonged to the state and not to the United States. The United States had only appropriated money for the construction of the road and caused it to be constructed.

A motion (May 7, 1822) to pass the bill over Monroe's veto did not even receive the vote of the majority, sixty-eight voting for it and seventy-two against it. The next day Congress adjourned.

The Eighteenth Congress met December 1, 1823. Clay was elected Speaker. During the debate on a bill which provided for obtaining surveys for roads and

canals, the exposition of the President was subjected to an elaborate examination. Clay presented with great clearness and force the case of those who disagreed with Monroe. He contended that "establish" meant "to make firm, to build," and that since roads and canals enabled the government to bring into rapid action its military resources, the right to make them followed from the right to declare war. In a splendid burst of patriotic eloquence he deprecated the disposition to make the "narrow, limited necessities of the old thirteen states" an unchangeable rule for the interpretation of the constitution. "Are we to neglect and refuse the redemption of that vast wilderness which once stretched unbroken beyond the Alleghanies?"*

Clay's examination of Monroe's reasoning.

The bill passed the House by a vote of 114 to 82. When it came before the Senate, Van Dyke of Delaware moved to amend it by inserting a provision that before any survey should be made under the act, the consent of the state in which such survey was to be made should be obtained. The motion was lost by a vote of 28 to 15. A motion to amend the bill by attaching to it a provision "that nothing herein contained shall be taken to affirm or admit the power of Congress to make roads and canals in any state in the Union" was also lost by a vote of 25 to 21. The bill passed the Senate by a small majority,

* Annals of Congress, 1823–1824, 1022.

and Monroe signed it on the ground that it provided merely for the collection of information.

In his annual message, December 2, 1823, the President set forth what has since been known as the Monroe doctrine. To understand the occasion of it, we must take a brief survey of the conduct of a league of European sovereigns popularly known as the Holy Alliance.

The Holy Alliance.

Shortly after the battle of Waterloo, the Emperors of Russia and Austria and the King of Prussia signed an alliance in which they declared the "ardent conviction . . . of the necessity" of basing "the reciprocal relations of the several powers" on the "sublime truths of the holy religion of the Lord and Redeemer," and asserted their "firm purpose to adopt . . . the principles of this eternal creed" as their guide; as representatives of Jesus Christ, they felt themselves "commissioned to govern in different parts of the Christian world," and were accordingly "members of a veritable and indissoluble union," bound, when occasion demanded, to come to each other's assistance.

Every sovereign in Europe except the Pope and the Sultan of Turkey was invited to sign this alliance, and the invitation was accepted by all save England, which assigned some technical reason for declining.

At the Congress of Aix-la-Chapelle (1818) this alliance began to take on a practical meaning. Substantial progress was there made towards the realization of a plan

to make the repression of every liberal movement a part of the public law of Europe.* Two years later, at the Congress of Troppau, Russia, Austria, and Prussia agreed upon a circular which they sent to all the other powers of Europe, and which formally embodied the doctrine of federative intervention in behalf of despotism. "Useful or necessary changes in legislation," said this circular, "ought only to emanate . . . from those whom God has rendered responsible for power. . . . The sovereigns regarded as legally null all pretended reform operated by revolt and open hostility."

First Naples and then Spain — each of which had made an attempt to secure constitutional government — was made to feel the consequences of departing from the principles of the Holy Alliance. One army entered Naples, and another Spain, and compelled the people of those countries to accept the rule of a monarch from whose despotism they had succeeded in freeing themselves; and hundreds of Neapolitans and Spaniards who had been guilty of no crime but that of attempting to secure a measure of freedom for their country, paid for it with their lives.

The attitude of England was becoming more and more hostile to the schemes of the Holy Alliance. It was the intervention of England which had prevented the congress at Aix-la-Chapelle from announcing the principle of federa-

England's opposition to the schemes of the Holy Alliance.

* Memoirs of Prince Metternich, III., 195.

tive interference in behalf of despotism, and British opposition to this principle at Troppau was emphatic. To Wellington, who represented England at a congress of European sovereigns and their ministers at Verona, Canning wrote: "If there be a determined project to interfere by force or menace in the present struggle with Spain, . . . I am to instruct your grace at once frankly and peremptorily to declare that to any such interference, come what may, his Majesty will not be a party."

The King of Spain had asked the allied sovereigns, before the meeting of the congress at Aix-la-Chapelle, to help him suppress the rebellion in his South American colonies. At that congress the envoys of Russia and France pointed out the dangers to which the monarchies of Europe would be exposed from a federation of republics in America.

On August 22, 1823, Canning wrote to Richard Rush, the American minister, suggesting that England and the United States take concerted action against forcible intervention in behalf of Spain against Spanish America, conditioned on the agreement that neither power acquire any part of the Spanish colonies. Two days later he wrote again, repeating the suggestion and declaring that he had just been informed that, as soon as France succeeded in putting down constitutional government in Spain, a proposal would be made for a congress in Europe to consider the

Canning's proposal to Rush.

affairs of Spanish America. Rush at once transmitted to his government Canning's proposal.

It was probably due to John Quincy Adams that the message announcing what has since been known as the Monroe doctrine was not of a very different sort. The first draft of the message spoke in terms of the most pointed reprobation of the invasion of Spain and of the principle upon which it had been undertaken — that representative government must always be the free gift of the legitimate sovereign. Adams strenuously objected to the message. He said that it would cause an abrupt break in our foreign policy, since during the thirty years that Europe had been in convulsion we had entirely forborne to interfere in any of the combinations of European politics.* Monroe's message.

In an interview with Monroe the next day, he objected even more emphatically to the message, saying that at the Congress of Aix-la-Chapelle the allies had discussed what they should do with South America, and we had not even thought of interfering with them; that if they intended now to interpose by force, we should have as much as we could do to prevent them, without undertaking to bid them defiance in the heart of Europe. He thought that against the interference of the European powers in South America this country should earnestly remonstrate, but that it should make no attempt to meddle in Europe;

* Memoirs of John Quincy Adams, VI., 195.

that it should "make an American cause and adhere inflexibly to it."*

Monroe was convinced by the reasoning of Adams. As transmitted to Congress, his message was entirely conformable to the ideas so earnestly urged by his Secretary of State. The paragraph relating to the schemes of the Holy Alliance, and to the policy of the American government in relation to them, was as follows: "In the wars of the European powers, in matters relating to themselves, we have never taken any part, nor does it comport with our interest to do so. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defence. With the movements in this hemisphere we are, of necessity, more immediately connected. . . . The political system of the allied powers is essentially different from that of America. We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the governments who have declared their independence and maintained it, and whose independence we have,

Monroe adopts Adams' suggestion.

* Memoirs of John Quincy Adams, VI., 197.

on just considerations, acknowledged, we could not view any interposition for the purpose of oppressing them or controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition towards the United States."

According to Rush, this part of the message was hailed with joy by the entire English people. In the course of a speech in the House of Commons, Brougham asserted as an indisputable fact that "Ferdinand had been promised by the Emperor Alexander that if the King of Spain would throw off the constitutional fetters by which he was trammelled, the Emperor of Russia would assist him in recovering his trans-Atlantic dominions. . . . The question with regard to South America was now disposed of, or nearly so. For an event [the transmission of Monroe's message to Congress] had recently happened, than which no event had ever dispersed greater joy, exultation, and gratitude over all the freemen of Europe. That event was decisive on the subject."

Effect upon England.

But there was another paragraph in the message which England did not find so commendable. That paragraph reads as follows: "At the proposal of the Russian imperial government made through the minister of the emperor residing here, a full power and instructions have been transmitted to the minister of the United States at St. Peters-

American continents not subject to future colonization.

burg to arrange by amicable negotiation the respective rights and interests of the two nations on the northwest coast of this continent. . . . In the discussions to which this interest has given rise, and in the arrangements by which they may terminate, the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European powers."

Ukase of the Emperor of Russia.

The rights of the United States on the northwest coast had been acquired from Spain by the treaty of 1819. On February 28, 1822, Poletica, the Russian minister to the United States, sent a note to Adams informing him that the Emperor Alexander had issued a ukase in the preceding September forbidding all the pursuits of "commerce, whaling, and fishery . . . to every one except the subjects of Russia from the Behring Straits to the fifty-first degree of north latitude on the coast of North America, and from the Behring Straits to 54° 50′ on the coast of Asia." Foreign vessels were not only prohibited from landing on these coasts, but from approaching within less than one hundred Italian miles of them. The Russian minister maintained that Alexander would be justified in exercising the right of sovereignty over the whole of the Pacific Ocean between the coasts of

North America and Asia, as above defined, since both coasts belonged to Russia, and the ocean between them was, therefore, a *close* sea. Adams said that the distance from North America to Asia on the parallel of fifty-one degrees north latitude was four thousand miles, and that the right to navigate that ocean and trade with those natives on the northwest coast of America "who were not under the territorial jurisdiction of other nations" was a part of the independence of the United States.

In discussing this subject with the Russian minister in July, 1823, Adams said: "We shall contest the right of Russia to any territorial establishment on this continent; and we shall distinctly assume the principle that the American continents are no longer subjects for any new European colonial establishments." *

The two paragraphs above quoted embody what is known as the "Monroe doctrine." It consists of three propositions: first, that any attempt on the part of the allied powers to extend their system to any portion of this hemisphere would be regarded as dangerous to our peace and safety; secondly, that the interposition of any European power to oppress the South American governments or in any manner control their destiny would be taken as manifesting an unfriendly disposition towards the United States; thirdly, that "the continents of America, by the

Meaning of the Monroe doctrine.

* Memoirs, VI., 59.

free and independent position which they have assumed and maintained, are not henceforth to be considered as subjects of colonization by any European power."

In January, 1824, Clay introduced into the House of Representatives a resolution "deprecating European combinations to resubjugate the independent states of Spanish origin." The resolution was never acted on; the "Monroe doctrine" was, therefore, the mere statement of an opinion on the part of the executive, without any binding force on the legislative branch of the government.

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CHAPTER XXVIII.

THE TARIFF OF 1824.

THE financial crisis of 1818-1819 contributed powerfully to the development of a public opinion in favor of protection as a permanent system. Staggering painfully under the burdens of that crisis, the farmers of the country were not long in making up their minds that one of its causes was the lack of a home market for their produce. What was the good of raising a surplus of corn and wheat if they could find no one to buy it? The produce of American farms, above what was needed for home consumption, was lying unsold in the granaries because, while we were buying the products of English manufacturers, English laborers were supplied with breadstuffs from the farms of Europe.

Influence of the financial crisis on protection sentiment.

From this standpoint, the remedy for the difficulty seemed clear: we must ourselves produce the articles which we had been buying abroad. With American farmers supplying food and raw materials to American manufacturers, and American manufacturers supplying American farmers with agricultural implements and materials for clothing, both classes would be benefited by having their home market enlarged.

But domestic manufactures could not be developed unless they received the protection of the government. Our laboring classes received such high wages that it was impossible for American manufacturers to compete, on equal terms, with manufacturers who employed the "pauper labor" of Europe. The argument was (and this point should be carefully noted) that the high price of labor in this country should be a cause for high protective duties, not high protective duties a cause for high wages. This, then, became the cry in 1819: Protection for home manufactures! A home market for farm produce!

Protective legislation in 1819.

In 1819, accordingly, as has been said, the provision of the law of 1816 that the duties on cotton and woollen goods should be reduced from twenty-five to twenty per cent was repealed, and the duties on iron were raised considerably.

Tariff bill of 1820.

But this did not satisfy the new demand for protection. Overwhelmed with memorials and remonstrances from business men all over the country, who regarded the "hard times" as an effect of insufficient protection, the House of Representatives in 1820 passed a tariff bill raising the duties imposed by the law of 1816. The bill was lost in the Senate by a single vote.

The sectional character of the vote was significant. Every representative from New York, New Jersey, Ohio, Indiana, Illinois, and all but one from Pennsylvania voted for it. Fifty-four of the sixty-two votes cast by Southern men were against it.

Sectional character of the vote.

New England was divided because the shipping interest was still important in that section, and any measure that diminished imports diminished its profits. The South was opposed to it because of the fear that England would go somewhere else to buy cotton if we put prohibitory duties on her manufactures. The Middle states favored the tariff because they hoped it would give them a home market for their agricultural products.

Monroe recommended protective legislation in 1821, 1822, and again in 1823. That part of his message relating to the subject in 1822 was referred to the Committee on Manufactures. This reference was significant. Theretofore this subject had been dealt with by the regular revenue committee, the Committee on Ways and Means. Its reference to the Committee on Manufactures was a distinct avowal of the principle that in levying duties on imports the matter of primary importance was not the effect upon revenue but the effect upon manufactures.

Tariff bill reported by Committee on Manufactures.

Hardly less significant was the fact that that committee framed a bill without asking the advice of the

Secretary of the Treasury. Prior to this, recommendations as to methods of raising revenue had been supposed to be the business of that officer, since he was regarded as an expert on financial matters.

In 1823, Congress in effect said that it did not need the advice of an expert in framing its tariff bills. This was doubtless primarily an expression of those extreme democratic ideas the increasing prevalence of which we have already had occasion to notice. But the refusal to get the benefit of the advice of the Secretary of the Treasury could hardly be without effect upon legislation. Assuming for members of Congress all the expert knowledge which the Secretary of the Treasury may be supposed to possess, members of Congress are, in the nature of the case, exposed to influences which tend to make their expert knowledge less valuable to the country. The Secretary of the Treasury, by virtue of his position, may be presumed to think first of the interests of the entire country; members of Congress, on the other hand, are almost sure to think first of the interests of their immediate constituents. The inevitable tendency, then, of framing tariff bills without the aid of the Secretary of the Treasury was to increase the probability that the interests of particular sections, not the interests of the entire Union, would be primarily regarded.

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Struggle over the tariff of 1824.

the intensity of the excitement. When the final struggle came in the House, even the sick members forsook their beds to take part in it.

Clay was undoubtedly the ablest advocate of what he called the American system (i.e., protection) then in Congress. Basing his argument on the assumption of a general distress throughout the country, he traced the cause of that distress to the fact that the termination of war in Europe had led to the "resumption of European commerce, European navigation, and the extension of European agriculture and European industry in all its branches," and, therefore, to the loss of our European markets. What was to be done about it? Evidently, from the point of view of this reasoning, there was but one thing which could be done: create a home market or acquiesce in a state of comparative suffering. "Let us counteract the policy of foreigners, and withdraw the support which we now give to their industry, and stimulate that of our own country. . . . A home market, highly desirable as it is, can only be created and cherished by the protection of our own legislation against the inevitable prostration of our industry, which must ensue from the action of foreign policy and legislation. . . . Let us suppose that half a million persons are now employed abroad in fabricating for our consumption those articles of which, by the operation of this bill, a supply is intended to be pro-

Clay's argument.

vided within ourselves. That half a millions of persons are in effect subsisted by us; but their actual means of subsistence are drawn from foreign agriculture. If we could transport them to this country, there would instantly arise a demand for an amount of provisions equal to that which would be requisite for their subsistence throughout the whole year. That demand, in the article of flour alone, would not be less than 910,000 barrels," an amount exceeding by 150,000 barrels the entire quantity exported in 1823. If, instead of transporting the half-million foreigners to this country, their work were given to a half-million Americans, as this bill proposed, the beneficial effect would be much increased.

As to the effect of the bill upon the revenue, Clay's argument showed that he agreed with other speakers on his side in thinking that the bill ought to pass even if it should decrease the revenue, since the great national objects which, in his opinion, it would achieve were of vastly greater importance than a few millions more or less of revenue.

Daniel Webster, who made the great speech in opposition to the bill, began his reply to Clay by asserting that the latter had greatly exaggerated the distress which existed in the country. But admitting that there were evils, how would the bill remove them? It would certainly embarrass the shipping interest; it would diminish the amount of im-

Webster's reply.

ports, and therefore diminish the business of that interest; and it would lay a heavy tax upon it for the benefit of the iron-manufacturer and the hemp-grower.

As to increasing the home market for the products of agriculture, Webster declared that the friends of the measure had failed to state what provisions of the bill would produce this effect. There had been no careful analysis of the various industries which it was intended to protect so as to show that it was in fact calculated to produce this result. In the production of some manufactures labor was the most important factor, while in the production of others skill and capital were the most important elements. If the measure was to create a home market for agriculture, its protection should be extended to those articles in the manufacture of which labor was the important element. But the advocates of the bill had argued in its defence as though the domestic manufacture of one article was as well adapted to create a market for agriculture as another.

The representatives of the planting states opposed the bill with great bitterness. They said with truth that there was a geographical line which separated its friends from its enemies; that the effects of it upon the cotton-, rice-, and tobacco-growing states would be pernicious in the extreme; that it endangered the sale of nearly the whole of their cotton crop, since if Great Britain were prevented

Attitude of the planting states.

by a prohibitory duty from bringing her manufactures to this country, interest and resentment might combine to drive her to another market for her cotton: interest, in that it would be cheaper for her to buy cotton in the same market in which she sold her manufactures; resentment, in that she would refuse to buy our cotton as a retaliation against our prohibitory duties. Finally, they said that the effect of the measure would not only be injurious to them by depriving them of their accustomed markets, but also that it would compel them to pay more for their coarse garments with which they clothed their slaves.

There seems to have been a reluctance upon the part of Southern men to bring the slavery question into the argument. Barbour, however, distinctly said that one of the reasons why such measures would always be detrimental to the interests of the South was because of its system of labor. To this Clay, Southerner and slaveholder though he was, replied: "According to the gentleman, a certain part of our population, happily much the smallest, is peculiarly situated. The circumstance of its degradation unfits it for the manufacturing arts. The well-being of the other and the larger part of our population requires the introduction of those arts. What is to be done in this conflict? The gentleman would have us abstain from a policy called for by the interests of the greater and freer

Influence of slavery.

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Crawford has been very happily characterized by Mr. Carl Schurz as a man with a reputation for a reputation. He seems to have been one of the forerunners of the class of politicians who believe in the omnipotence of intrigue. He nearly succeeded in intriguing himself into nomination by the congressional caucus in 1816, and when it was manifest that he was going to be beaten, he made a merit of resigning in Monroe's favor. He seems to have bent all his energies to securing the nomination by the congressional caucus in 1824. He was accused by his colleagues of supporting measures in the cabinet which he thought would bring discredit upon the Administration, and causing his friends outside the cabinet to denounce them. Certain it is that some of the bitterest critics of the Administration were his warmest supporters. It was charged that, in furtherance of his political ambition, he deposited the money of the government (in cities where the Bank of the United States had no branch) in banks whose soundness he had good reason to question. Among the few laws connected with his name is one passed in 1820 limiting the term of treasury employés to four years. It was a law perfectly adapted to the uses of what was afterwards known as the "spoils system," and was doubtless intended by him for that purpose. He seems to have regarded politics as a game, in the playing of which the

William Harris Crawford.

important thing is not to observe inconvenient rules, but to win.*

Jackson's candidacy was an innovation in American politics. He had made his reputation entirely as a soldier. He had indeed been appointed a senator of the United States in 1796. But the most conspicuous quality which he manifested in that office was an uncontrollable temper. "He could never speak," Jefferson told Webster in 1824, "on account of the rashness of his feelings. I have seen him attempt it repeatedly, and as often choke with rage."† It is easy to understand why he was angry. It was because there were men in the Senate who were so wicked as to pretend to disagree with him. Monroe asked Jefferson in 1818 whether it would not be wise to give Jackson the mission to Russia. Jefferson's answer showed a perfect appreciation of one side of Jackson. "Why, good God, he would breed you a quarrel before he had been there a month." Both in his public and his private life Jackson

Andrew Jackson.

* On the other hand it is only fair to say that Gallatin, who knew Crawford well, said that he was a man of powerful mind, who "united a most correct judgment with inflexible integrity." More significant is the fact that John Quincy Adams, whose diary abounds in charges against Crawford, asked the latter to keep his position as Secretary of the Treasury in Adams' cabinet. It is impossible to avoid the conclusion either that Adams, upon further reflection, doubted the truth of his own charges, or else that he invited a man to be Secretary of the Treasury whom he regarded as unfit for the position.

† Curtis' Life of Webster, I., 589.

showed a positive genius for quarrelling. He arrested a man named Louailler in New Orleans in 1815 because the latter had dared to criticise one of Jackson's arbitrary orders, and then he arrested a judge who had been so presumptuous as to issue a writ of *habeas corpus* for Louailler. We know how he acted in Florida, trampling under foot the rights of Spain as sovereign of that territory, and hanging Indians and English subjects as though he were lord of the world. He was appointed governor of Florida in 1821. He at once got into a quarrel with the Spanish ex-governor, Callava, which ended in his sending the latter to the calaboose. Fromentin, a judge of the western district of Florida, issued a writ of *habeas corpus* for Callava, whereupon Jackson summoned Fromentin to appear before him and show on what ground he had ventured to interfere with his authority.

In all these instances—and an indefinite number of the same description might be cited—Jackson was perfectly sure he was right. There were but two colors in the world for him, black and white. White was his color, and black was the color of those who disagreed with him. He was entirely right; his opponents were entirely wrong, and the case was so plain that he was sure they knew that they were wrong and only pretended to believe what they did not believe. Absolute submission to his will in relation to any matter on which he had

set his heart was the price of his friendship. Regarding himself, not in a consciously egotistic sense, as the practical embodiment of truth and right, looking upon himself as a sort of knight whose business it was to fight error and wickedness wherever he found them, with all the vigor of his extraordinarily energetic nature, no amount of past services was any excuse in his eyes for present disloyalty to the causes which were represented in his person. The same trait of character explains his insubordination. Constitutional clauses, laws, writs of *habeas corpus,* all of the various kinds of red-tape with which weak men allow themselves to be prevented from doing their duty, he brushed aside as so many cobwebs when they stood in his way, because his way was right.

Opinions of Jackson's fitness for the presidency.

It is easy to understand the impression which he made on different people. One class, admiring him for his courage, honesty, energy, and integrity, would not permit themselves to believe that a man who possessed those traits in such an extraordinary degree as did Jackson could lack any virtue. Another class, concentrating their attention on his energetic disregard of every convention that stood in his way, were greatly disturbed by his candidacy. Jefferson said: "I feel very much alarmed at the prospect of seeing General Jackson President. He is one of the most unfit men I know of for the place. He has

had very little respect for laws and constitutions, and is in fact an able military man."*

Jackson's own original opinion.

When the matter was first broached to him, Jackson himself was decidedly of the opinion that he was unfit to be President. H. M. Brackenridge, Jackson's secretary and translator when he was governor of Florida, says that one evening in Pensacola (in 1821) Jackson picked up a paper in which he was mentioned as a probable candidate for the presidency. After reading it, he threw the paper angrily down and said: "Do they think that I am such a damned fool as to think myself fit for the presidency? No, sir; I know what I am good for. I can command a body of men in a rough way, but I am not fit to be President."†

William B. Lewis.

As destiny would have it, Jackson had a neighbor with entirely different opinions. This man, Major William B. Lewis, had married a niece of Mrs. Jackson. He was an enthusiastic admirer of Jackson and was convinced that the latter ought to be President, and that he could be elected. How early he came to this conclusion it is impossible to determine, but the evidence indicates that he had reached it as early as 1816. With no personal ends to serve, he gave his time without stint to bring about the desired result. He was well qualified for the task.

* Curtis' Life of Webster, I., 589.
† Parton's Life of Jackson, II., 354.

He not only knew the people, especially the uneducated class with whom Jackson was most popular, but was a clever writer. As Professor Sumner says: "When he wanted to go straight to a point, he could do so; when he wanted to produce effects or suggest adroitly without coming to the point, he could do that too."* Lewis knew that before Jackson had made up his mind on any subject, it was easy to determine his conclusions by putting the facts before him in a proper light.

In the latter part of 1816 Lewis wrote a number of letters for Jackson to Monroe. (It is easy to distinguish the letters which were revised by one or other of Jackson's lieutenants. His unrevised letters are always marred by grammatical mistakes, and sometimes, as Alexander Johnston has noted, by blunders of a different character, as when he told his army in 1814 that the infliction of evils was a dispensation of Providence, "perhaps a wise one." Lewis himself said that one of the letters to Monroe in 1816 was copied by him, and that he was so much pleased by its noble sentiments that he took an extra copy of it for himself.) The letters were written to recommend William H. Drayton, a South Carolina Federalist, as Secretary of War. In one of them Jackson said: "Every thing depends on the selection of your ministry. In every selection party and party feeling should be

Jackson's Drayton letters.

* Sumner's Life of Andrew Jackson, 78.

avoided. Now is the time to exterminate the monster called party spirit. By selecting characters most conspicuous for their probity, virtue, capacity, and firmness, without any regard to party, you will go far to, if not entirely, eradicate those feelings which, on former occasions, threw so many obstacles in the way of government; and perhaps have the pleasure and honor of uniting a people heretofore politically divided. The chief magistrate of a great and powerful nation should never indulge in party feelings. His conduct should be liberal and disinterested, always bearing in mind that he acts for the whole and not a part of the community. By this course you will exalt the national character, and acquire for yourself a name as imperishable as monumental marble."* Jackson fully believed all this when he signed the letter. No power on earth could make him say what he did not believe.

First movement towards making Jackson President.

Lewis told Parton that the first step towards making Jackson President was taken in the latter part of 1821. In June of the next year, he was nominated by the legislature of Tennessee. In 1823, the legislature of that state had to elect a senator. John Williams, a popular man, who had filled the office for the eight preceding years, was a candidate for re-election. Since he was a Crawford man, the friends of Jackson were determined to defeat him.

* Parton's Life of Jackson, II., 358, 360.

As there was no Jackson man in the state strong enough to beat him, the Jackson men determined to defeat him with Jackson himself. A letter was written to Jackson asking his consent, in order to give him an opportunity to reply with one of those letters which his lieutenants knew so well how to write—a letter meant for the public eye. Jackson was nominated and elected by a large majority. In December, 1823, therefore, Jackson went to Washington as senator of the United States.

During the course of the tariff debate, Dr. L. H. Coleman, a member of the Virginia legislature, very opportunely wrote to Jackson to inquire whether he intended to vote for the tariff bill. (Probably Major Lewis could have explained how it was that Coleman happened to ask that question at that time.) The facile pen of some lieutenant was ready, but this time the letter did not come to the point. "You ask me my opinion on the tariff. I answer that I am in favor of a judicious examination and revision of it, and so far as the tariff before us embraces the design of fostering, protecting, and preserving within ourselves the means of national defence and independence, particularly in a state of war, I would advocate and support it. This tariff—I mean a judicious one—possesses more fanciful than real dangers. Where has the American farmer a market for his surplus produce? Except for cotton, he has neither a foreign nor a home market. Does not this clearly prove that there is

Jackson's Coleman letter.

too much labor employed in agriculture and that the demands of labor should be multiplied? Common sense points out at once the remedy. . . . Take from agriculture in the United States six hundred thousand men, women, and children, and you at once give a home market for more breadstuffs than all Europe now furnishes us. . . . It is time we should become a little more Americanized."* The letter is a perfect specimen of the art of writing on both sides of a question. The last sentence might have been taken from one of Clay's speeches. As to its initial statement, Webster, the ablest opponent of the tariff, said the same thing. He also was in favor of a "judicious" revision of the tariff.

In May, 1824, Jackson's Drayton letters to Monroe in 1816 were published. They exerted a powerful influence in Jackson's behalf. Not only Federalists but moderate men of all political antecedents were delighted with them.

Meanwhile what was Clay doing for the promotion of his political prospects? Writing frank, manly letters to his numerous friends all over the country, making no attempt to conceal his wish to be President, and sometimes giving very urgent advice as to the management of his campaign. He was ambitious, but his ambition was of no vulgar kind. The thought of filling the first position in the

Clay's candidacy.

* Parton's Life of Jackson, III., 34, 35.

great American Republic was doubtless very pleasant to him; but the thought of using that position to advance the interests of free government all over the world, to put the great Republic at the head of a genuinely Holy Alliance, of an alliance dedicated to the cause of liberty, to bind the various parts of the country into a closer and closer union, to so promote the well-being of the people as to demonstrate to the unwilling despots of Europe the inherent superiority of free government, was pleasanter still.

Though Clay was very anxious to be President, he would not resort to intrigue to gratify his ambition. To Francis Brooke he wrote, January 31, 1823: "On one resolution my friends may rest assured I will firmly rely, and that is to participate in no intrigues, to enter into no arrangements, to make no promises or pledges; but that, whether I am elected or not, I shall have nothing to reproach myself with. If elected, I will go into the office with a pure conscience, to promote with my utmost exertions the common good of our country, and free to select the most able and faithful public servants."*

And John Quincy Adams? Like Clay, he was very ambitious to be President, but, unlike Clay, he absolutely refused to make any use of his friends.

John Quincy Adams' methods.

Not only so: though his friends knew his ambition, he not only assumed, in his conversations with them, an entire indifference in relation

* Private Correspondence of Henry Clay, 72.

to the matter, but gave them no information which they could use in repelling attacks upon him. One of them, Joseph Hopkinson of Philadelphia, complained of this in a letter to Mrs. Adams. When the letter was submitted to Adams, he set forth the theory upon which his conduct was based. He said: "*Detur digniori* is the inscription upon the prize, and the choice of ten millions of people by their delegated agents must award it. No, say you, little chance is left to merit. The prize is awarded by politicians and newspapers; and the man who sits down waiting for it, by chance or just right, will go bareheaded all his life. . . . Here we come to the point. The principle of the constitution, in its purity, is that the duty shall be assigned to the most able and most worthy. Politicians and newspapers may bestir themselves to point out who that is; and the only question between us is whether it be consistent with the duties of a citizen who is supposed to desire that the choice should fall on himself to assist, countenance, and encourage those who are disposed to befriend him in the pursuit. The law of friendship is a reciprocation of good offices. He who asks or accepts the offer of friendly service contracts the obligation of meeting it with a suitable return. . . . If he asks or accepts the aid of one, he must ask or accept the aid of multitudes. Between the principle, of which much has been said in the newspapers, that a President of the United States must remember those to whom he owes his ele-

vation, and the principle of accepting no aid on the score of friendship or personal kindness to him, there is no alternative. The former, as it has been announced and urged, I deem to be essentially and vitally corrupt. The latter is the only principle to which no exception can be taken." This flawless ideal of civic virtue John Quincy Adams lived up to.

As to the personalities indulged in during the campaign—that Crawford was corrupt, that Adams was a traitor (alluding to his leaving the Federalists in 1807), that Jackson was a murderer (referring to his numerous fights and duels), that Clay was a gambler (on the ground of his well-known fondness for cards and his habit, very common among the gentlemen of that time, of betting high)—there is no need of details. Politicians were no more scrupulous then than they are now, and, as to-day, the thing of primary importance to many politicians was, not the truth of a charge against an opposing candidate, but its fitness to injure him.

When the result of the election became known, it was found that Jackson had received ninety-nine electoral votes, Adams eighty-four, Crawford forty-one, and Clay thirty-seven. Calhoun, who had withdrawn as a candidate for the presidency in favor of Jackson, was elected Vice-President by a vote of one hundred and eighty-two out of two hundred and sixty-one. Every New England state gave its vote to Adams, and by very large majorities. New York gave

Result of the election.

him twenty-six votes, Delaware and Illinois one, Maryland three, and Louisiana two. Excepting the two from Louisiana, he did not receive a single electoral vote south of Maryland, and his popular vote in the Southern states was very small. With the exception of Kentucky, the Southern states divided their vote between Jackson and Crawford. The latter received the entire vote of Virginia, his native state, and of Georgia, the state of his adoption. He received besides five votes from New York, two from Delaware, and four from Maryland.

As soon as the result of the election was known, Clay became the centre of attraction. Unable to be elected himself, since the constitution required the House of Representatives to choose one of the three candidates who had received the highest number of electoral votes, it was universally conceded that in the next struggle for the presidency his influence would be a controlling factor.

Clay's influence.

What arguments and influences were brought to bear on him it is easy to imagine. In an amusing letter to Francis P. Blair of Kentucky, then a friend, but destined in the course of a few years to sustain a very different relation to him, he gave an account of his experiences: "I am sometimes touched on the shoulder by a friend, for example, of General Jackson, who will thus address me: 'My dear sir, all my dependence is upon you; don't disappoint us; you know our partiality was for you next

Clay's letter to Blair.

to the hero, and how much we want a Western President.' Immediately after, a friend of Mr. Crawford will accost me: 'The hopes of the Republican party are concentrated on you; for God's sake preserve it. If you had been returned instead of Mr. Crawford, every man of us would have supported you to the last hour. We consider you and him as the only genuine Republican candidates.' Next a friend of Mr. Adams comes with tears in his eyes: 'Sir, Mr. Adams always had the greatest respect for you, and admiration of your talents. There is no station to which you are not equal. Most undoubtedly you are the second choice of New England, and I pray you to consider seriously whether the public good and your own future interests do not point most distinctly to the choice which you ought to make.' How can one withstand all this disinterested kindness?" Even Jackson, who had been a bitter enemy of Clay ever since the Kentuckian had criticised the Florida campaign, permitted himself to be persuaded by his friends to allow a sort of reconciliation to be brought about.

But Clay was perfectly clear as to his vote. Crawford he regarded as out of the race. The Secretary of the Treasury had had a stroke of paralysis in the summer of 1823, and for months had been unable to sign his name. Though his health had improved somewhat, it was still a matter of doubt whether if elected he would be able to perform the duties of the office. As between Adams and Jackson,

Clay's decision.

was it possible for a man like Clay to be in doubt? He did not believe that "killing two thousand and five hundred Englishmen at New Orleans qualifies for the difficult and complicated duties of the chief magistracy." Accordingly, he never wavered in his determination to vote for Adams. He told Benton (one of the senators from Missouri, and at that time one of his loyal supporters), before he went to Washington, that he intended to vote for Adams.

The friends of Jackson tried to convince Clay that he was bound as a Democrat to vote for their candidate. Jackson had not only received the highest number of electoral votes, but he was the manifest second choice of a number of states that had voted for one of the other three candidates. Not to vote for Jackson was to sacrifice the democratic principle to the theory of the constitution. To attempt to exercise judgment in such a case for any purpose except to ascertain the will of the people was Federalism.

Argument addressed to Clay by the friends of Jackson.

It will be noted that this is the same argument by which the legislature of Ohio attempted to justify itself in defying a decision of the Supreme Court of the United States. The people, reasoned the Ohio legislature, had sat in judgment on the doctrines of the Kentucky and Virginia resolutions, and since the verdict of that great tribunal had been favorable to these doctrines, any contrary decision of the Supreme Court was an impertinence. Granted

Nature of this argument.

that the constitution invests the Supreme Court with the right of deciding questions of constitutional interpretation, from whence does the constitution derive its authority? From the people. But what the people made they can unmake; what they have set up they can tear down. And granted, said the Jackson men, that the constitution gives the House of Representatives the right, under certain circumstances, to elect a President of the United States, it is in the highest degree undemocratic, when the will of the people is known, to exercise it for any purpose except to carry out their will. Not to do it is to assume that their representatives know better than the people themselves do what is good for them, is to assume that the contention of the Federalists that the people have not intelligence and virtue enough to govern themselves, and therefore their defects in these respects must be supplied by their representatives, is true.

How can we ascertain what the will of the people is, Clay might have asked in reply to such arguments, unless we do it in the way prescribed by the constitution? Your assertion that Jackson was the second choice of a number of states which voted for one of the other candidates is a mere inference. You ask me to abandon my judgment as to what I ought to do, and accept your judgment as to what the people would have me do. The constitution, which you admit is the distinctly formulated will of the people, tells me in such a case as this to exercise my judgment. Is not this equivalent to saying that

in such an emergency the people have ordered me to vote as I think best?

When the Jackson men learned that Clay intended to vote for Adams they changed their tactics. Argument and persuasion having failed, they tried to drive him from his purpose. They circulated a charge that Clay and Adams had made a corrupt bargain; that Adams had proposed to make Clay Secretary of State if Clay would make him President, and that Clay had agreed to do it. The charge was made in a letter dated at Washington and purporting to be written by a member of Congress. It was published January 28. On February 1, Clay, in a card printed in the "National Intelligencer," declared that in his opinion the letter was a forgery, but that "if it be genuine, I pronounce the member, whoever he may be, a base and infamous calumniator, a dastard and a liar." Two days later, George Kremer, one of those insignificant and utterly unimportant men who somehow contrive to get elected to Congress — a devoted Jackson man — avowed himself the author of the letter.* Clay immediately asked the House to appoint a special committee to investigate the charge.

Kremer's letter.

* The letter was too well written to make it possible that Kremer, who was an illiterate man, could have been its author. It was probably written by Eaton, Jackson's colleague in the Senate.

A motion to appoint a committee of investigation embarrassed Kremer exceedingly. To one member he said that he did not write the letter; to another that he had not intended to make any charge at all. After two days' debate, the committee was appointed; and on February 9, the day the election was to take place, the committee reported that Kremer had refused to testify, and had attempted in a long letter to justify his refusal on the ground that the committee had no constitutional authority to examine him; that the assumption of such authority by the House of Representatives or one of its committees would be an invasion of the liberty of speech and of the press; that for what he did outside of the House he was answerable to his constituents—and to them, and to them only, would he make his explanation.

Report of the House Committee upon it.

This letter, like the one which contained the charge, was written to prevent Clay from voting for Adams, or, if that were not possible, to punish him for so voting.

Both letters were admirably suited to their purpose. Their authors knew that whoever became President would, unless he was elected in opposition to Clay's influence, be likely to offer the portfolio of state to Clay. But if he voted for Adams and was then made Secretary of State, they could point to the fulfilment of their prediction as the proof of the truth of their charge. The Jackson men were sure that Clay could not prove that he had not made any such bargain; that all he

could do was to disprove the charge in particular instances; and that even if he were to demonstrate its entire falsity, it would still be believed by those who had believed it in the first instance—not because of the evidence, but because of their wish to believe it.

Jackson circulates the charge.

Jackson, it is needless to say, was certain that the charge was true. On the way from Washington to Nashville (whither he went soon after the inauguration), he scattered the charge broadcast—in hotels, on steamboats, in stage-coaches—that the people had been cheated by a corrupt bargain between Adams and Clay. In October of that year, the legislature of Kentucky by an almost unanimous vote renominated Jackson for the presidency. When Jackson accepted the nomination, he resigned the senatorship. In his letter of resignation, he took occasion to say that the constitution should be so amended as to make members of Congress ineligible for government appointment except to judicial office during the term for which they were elected and for two years thereafter. He meant to say, and every one understood him, that measures should be taken to render impossible in the future such frauds as that of which Adams and Clay had been guilty.

In June, 1827, a letter of Jackson's was published in which the writer declared that a member of Congress had told him that Clay would vote for him if Jackson would say that, in case he was elected President, he

would not make Adams his Secretary of State; that this assurance was given by Clay's friends, who also said that the Adams men had told them that Clay would be made Secretary of State if he would vote for Adams.

Clay immediately published "a direct, unqualified, and indignant denial," and called upon Jackson to substantiate his assertion. Jackson replied that James Buchanan of Pennsylvania was his authority.

Buchanan was a strong Jackson man. But he himself had ventured to hint in a broad way, in the course of the preceding campaign, that if Clay would vote for Jackson, Clay could have the Secretaryship of State. Perhaps the recollection of this fact helped him to be honest. At any rate, he published an account of what he declared was the only conversation he had ever had with Jackson concerning the presidency, and said that in that conversation he had not acted as the agent of Clay or of any other person. Moreover, he had not said anything about a bargain between Adams and Clay. (This denial was made in such carefully chosen language that some of the Jackson papers declared that no denial had been made!) Clay then turned to Jackson, and demanded a retraction of his charge. Jackson never replied. If Buchanan did not tell him that there was a bargain, some one else did! At any rate, Jackson believed it to the end of his life. In 1844, when he was

Buchanan's testimony.

seventy-seven years old, he reiterated the charge. He said: "Of the charges brought against Mr. Adams and Mr. Clay at that time I formed my opinion, as the country at large did, from facts and circumstances which were indisputable and conclusive, and I may add that this opinion has undergone no change."

As long as he was President, Adams remained silent. But soon after he left the White House, he denied the charge in the most emphatic language. "Prejudice and passion," he said, "have charged Mr. Clay with obtaining office by bargain and corruption. Before you, my fellow citizens, in the presence of our country and Heaven, I pronounce that charge totally unfounded. . . . As to my motives for tendering to him the Department of State when I did, let that man who questions them come forward. Let him look around among statesmen and legislators of this nation and of that day. Let him then select and name the man whom by his preëminent talents, by his splendid services, by his ardent patriotism, by his all-embracing public spirit, by his fervid eloquence in behalf of the rights and liberties of mankind, and by his long experience in the affairs of the Union, foreign and domestic, a President of the United States, intent only upon the honor and welfare of the country, ought to have preferred to Henry Clay. Let him name the man, and then judge you, my fellow citizens, of my motives."

Adams' testimony.

The election was decided in Adams' favor on the first ballot. Thirteen states voted for him, seven for Jackson, and four for Crawford. The next day, Adams asked Clay to accept the Secretaryship of State, and Clay, after some hesitation, accepted the invitation. Jackson with fourteen other senators voted against his confirmation.*

* On the evening of the day on which Adams was elected, the President held a levee. The President-elect and Jackson, the defeated candidate, both attended it. Goodrich gives an account of their meeting. "It chanced in the course of the evening that these two persons, involved in the throng, approached each other from opposite directions, yet without knowing it. Suddenly, as they were almost together, the persons around, seeing what was to happen, by a sort of instinct stepped aside, and left them face to face. Mr. Adams was by himself; General Jackson had a large, handsome lady on his arm. They looked at each other for a moment, and then General Jackson moved forward and, reaching out his long arm, said: 'How do you do, Mr. Adams? I give you my left hand, for the right, as you see, is devoted to the fair; I hope you are very well, sir.' All this was gallantly and heartily said and done. Mr. Adams took the General's hand, and said, with chilling coldness: 'Very well, sir; I hope General Jackson is well!' It was curious to see the Western planter, the Indian-fighter, the stern soldier, who had written his country's glory in the blood of the enemy at New Orleans, genial and gracious in the midst of a court, while the old courtier and diplomat was stiff, rigid, cold as a statue! . . . The personal character of these two individuals was in fact well expressed in that chance meeting: the gallantry, the frankness, and the heartiness of the one, which captivated all; the coldness, the distance, the self-concentration of the other, which repelled all."

CHAPTER XXX.

THE SPLIT IN THE DEMOCRATIC PARTY.

ADAMS retained the cabinet of Monroe as far as possible. Southard, Monroe's Secretary of the Navy, William Wirt, his Attorney-General, and McLean, his Postmaster-General (this officer did not then have a seat in the cabinet), all accepted Adams' invitation to keep their respective positions. After Crawford declined to remain at the head of the Treasury Department, the place was offered to Richard Rush of Pennsylvania, who accepted it. James Barbour of Virginia was made Secretary of War, and Clay, as has been said, Secretary of State.

Adams' cabinet.

A few days before the inauguration, Clay wrote to a friend: "An opposition is talked of here, but I regard that as the ebullition of the moment. There are elements for faction, none for opposition. Opposition to what? To measures and principles which are yet to be developed!"* The thing seemed absurd.

But if Clay had taken pains to make a careful study of the man who was to be his life-long antagonist, he could not but have anticipated just such opposition. How difficulties and obstacles affected Andrew Jackson, how they inspired him not only to defy them but to disregard serious bodily

The elements of opposition to Adams' administration: (1) Character of Jackson.

* Private Correspondence of Henry Clay, 116.

weaknesses in overcoming them, he had shown in his first campaign. Suppose he should exhibit the same characteristics in his civil contests? Suppose his defeat had set free that tremendous reservoir of energy which no enemy had hitherto been able to withstand, and concentrated it on the task of striking down that "Judas of the West" who, as he believed, had betrayed his country in order to be Secretary of State?

That is what happened. Jackson did not care much about being chosen President in 1824. But from the time that he believed he was cheated out of the election and the people defrauded by a corrupt bargain, he was determined to spare no pains to defeat those whom he regarded as conspirators against the liberties of his country.

The situation was in the highest degree calculated to excite Jackson. When in September, 1813, the news of the terrible massacre at Fort Mims reached him, he was lying in bed suffering from a pistol-shot in the shoulder which he had received two weeks before in a fight with the Bentons. He at once got out of bed and rode eighty miles in order to take charge of the troops which Tennessee called into the field against the Indians. But even that horrible butchery did not suffice to rouse the lion in his nature as did the situation in 1825. For, in that year, Jackson felt that a crime far more serious in its consequences had been committed. Civil liberty had been assaulted. Two men, honored by the people,

had conspired to defraud them. Should he, who regarded himself as a tribune of the people, permit this crime to go unrebuked? Should he permit John Quincy Adams, who had made the prostrate form of liberty the stepping-stone upon which he climbed into power, to be re-elected? Should that traitor Henry Clay sell his country for thirty pieces of silver and go without punishment? Jackson would not have been himself if he had not said *No,* and with all the more emphasis from the fact that *his* defeat had been the instrument through which this fraud upon the people had been accomplished.

There was, then, one element of opposition upon which Adams and Clay might have counted with absolute certainty: the will of Jackson. And a little study of the situation would have made it clear that the facts which gave his will a fulcrum to work upon would exert a powerful influence with that very large class of people who permit inclination and prejudice to take the place of evidence. The people who voted for Jackson in 1824 (and they belonged largely to the uneducated classes of society) were told by the Jackson managers a few days before the election that a corrupt bargain had been made between Adams and Clay: that Clay had agreed to make Adams President, and Adams had agreed to make Clay Secretary of State. Well, Clay made Adams President, and the very next day Adams made Clay his Secretary of State. Did not these facts prove the truth of the charge? They certainly did to the entire satisfac-

tion of a large number of the men who voted for Jackson in 1824.

There was another element of opposition, of which Thomas H. Benton was the exponent. He utterly disbelieved the corrupt-bargain charge, as he honorably declared in 1827. But he did most strenuously believe that violence had been done to democratic principles. He regarded the election of Adams as equivalent to saying to the people, You do not know what you need; you are, politically speaking, in a state of nonage. You know enough, perhaps, to select men to do your thinking for you. But to suppose that you can be trusted to think and act for yourselves is absurd.

(2) Those who believed that democratic principles had been violated.

Benton felt that this violation of democratic principles was particularly flagrant in the case of those representatives who had voted contrary to the wishes of their constituencies. Just before the election, Scott, a member of the House of Representatives from Missouri, wrote Benton that he intended to vote for Adams. Benton's reply is instructive. He said: "The vote which you intend to give is not your own—it belongs to the people of Missouri. They are against Mr. Adams. I, in their name, do solemnly protest against your intention, and deny your moral power thus to bestow your vote. . . . To-morrow is the day for your self-immolation. If you have an enemy, he may go and feed his eyes upon the scene; your former friend will share the afflicting

spectacle." Benton here antagonizes the principle which Clay represented, for Clay had been requested by the legislature of Kentucky to vote for Jackson.

Nature of the question at issue between Benton and the Adams men.

It is worthy of note that the question at issue between Benton and the Adams men was the reappearance in another form of the same question to which Hamilton and Jefferson had given such different answers. How shall we get a wise government? By giving the ultimate decision to the intelligent few, said Hamilton. By giving it to the people, said Jefferson. Hamilton thought it better to expose society to the selfishness of the intelligent few than to the ignorance of the untrained multitude; Jefferson thought it wiser to let society suffer the consequences of its own ignorance than to trust to the tender mercies of the intelligent. And that was Benton's opinion. The members of Congress who, contrary to the known wishes of their constituents, voted for Adams, thereby declared for Hamilton's principle—asserted that the members of Congress, exposed as they were to all sorts of corrupt influences, were more likely to decide wisely than the people.

For this reason there was a natural alliance between those who thought that Adams had been elected by means of a corrupt bargain and those who thought that the fundamental principles of democracy had been violated. The former believed that the only way to prevent a recurrence of such crimes against civil liberty was by the sacred

observance of democratic principles; the latter, even though like Benton they did not believe that there had been a corrupt bargain in this instance, nevertheless maintained that such compacts were the natural results of a violation of democratic principles.

(3) The professional politicians.

There was also a third element of opposition which might have been counted on. The professional politicians, the men who regarded politics as a business in which they were engaged not primarily for carrying out any policies which aimed to promote the public good, but for the furtherance of their own private interests, would be sure to array themselves on the side of Jackson against the Administration. It is worthy of note that when Jackson's candidacy was first announced, it was greeted almost universally with a shout of derision. "The Indian-fighter President of the United States!" The suggestion seemed too absurd to be considered. Very few thought it possible that any state except Tennessee would give its electoral vote to him. Accordingly, the professional politicians as a rule fought very shy of him. He was in a more real sense, perhaps, than can be said of any other man in American history the candidate of the people. And without the influence of politicians, with three men of large experience in public life against him, the people had given him a larger vote than any of the other candidates had received. That vote meant that a new power had appeared upon the stage of national politics: the

people, consciously acting upon the theories of democracy, upon the theory that they could intelligently take the initiative in politics. Could any one doubt that the politicians would appreciate the meaning of these facts?

These various causes made an organized opposition to Adams' administration, under any circumstances, inevitable. In December, 1825, or in the following January, Calhoun urged Joseph McIlvaine of Philadelphia to join the new party in opposition to the Administration. When McIlvaine objected that the Administration had done nothing to merit opposition, Calhoun replied that such was the manner in which it had come into power that it must be defeated at all hazards, regardless of its measures.*

Evidences of the existence of an organized opposition when Congress met.

Richard M. Johnson also declared to William W. Seaton that "as for this Administration, we will turn them out as sure as there is a God in heaven." "But how can you say so," replied Seaton, "before you see what course the Administration will adopt? Suppose they consult the public good and pursue a course that you think right?" Johnson replied with warmth: "I don't care, for, by the Eternal, if they act as pure as the angels that stand at the right hand of the throne of God, we will put them down."†

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* Sargent's "Public Men and Events."

† Washington Telegraph, April 18, 1827. Quoted by Sargent.

But it was the character and opinions of Adams which crystallized this opposition into a permanent political party. Federalists and Republicans had been divided, for the most part, on questions of foreign policy. With the close of the War of 1812, questions of this character had disappeared. That the national honor must be steadfastly and vigorously maintained was henceforth a maxim with every American statesman. After the War of 1812, therefore, the only possible ground of division between political parties was as to the proper domestic policy of the country, and as to the powers conferred upon the government by the constitution. Pronounced differences on these subjects, as has been seen, appeared as soon as the war was over. Those who, like Clay, Calhoun, and Lowndes, had their minds concentrated on the benefits the government might confer upon the people, who saw no danger in a liberal interpretation of the constitution, were the logical successors of the Federalists; those, on the other hand, who, like John Randolph and Monroe, were more alive to the evils of overstepping the boundaries marked out by the constitution than to the good that might result from government, were the logical successors of the Jeffersonian Republicans.

Questions which divided political parties up to 1815.

Political tendencies after the close of the War of 1812.

That during Monroe's administrations two political parties were not organized, the one founded on the belief

that the constitution should be liberally interpreted in order that the government might be hampered as little as possible in its efforts to promote the good of the people, the other having as its basic principle the theory that the government could best promote the ultimate interests of the people by exercising only those powers which could be derived from a strict interpretation of the constitution, was due in no small measure to Monroe himself. The hot-headed, indiscreet Republican of 1794 had given place in 1817 to a man in whose character a degree of caution closely verging on timidity was the dominant trait. In the temper that characterizes the leader—the masterfulness of mind which is utterly independent of support from the opinions of others — Monroe was strikingly deficient. He tried to imitate Washington; he succeeded in following the example of the first President only in his readiness to learn of others. But of that ultimate reliance on his own judgment which was so marked a characteristic of Washington, Monroe had no experience. A mediocre man, he seemed to be half conscious of the fact that the only way he could avoid mistakes was by leaning on others. It would be impossible to conceive of his ratifying a treaty in opposition to the wish of an indignant people, as Washington ratified Jay's treaty; of his defying the leading men in his own party, as John Adams defied the leaders of his when he sent the mission to France; or of pertinaciously adhering to, and courageously enforcing, a

Character of Monroe.

measure when it seemed to be bringing disaster upon his party, as Jefferson clung to and enforced the embargo.

John Quincy Adams was in many respects in sharp contrast with Monroe. Bold, aggressive, independent to a degree never surpassed among American statesmen, with clear and definite ideas as to the ends to which the government should devote itself, the absence of two parties doubtless seemed to him a poor thing if it was to be the result of not advocating the measures in which, with all his soul, he believed. Nor did it seem to him that he should be deterred from advocating them by the fact that they would be unpopular. He thought not of the four or eight years during which he might be President, but of the whole future of the country.

Character of John Quincy Adams.

In his inaugural address he took high ground in favor of internal improvements, and his first annual message set forth a theory of government which, under any circumstances, would have driven into opposition every believer in a strict construction of the constitution.

Adams' first annual message.

"The great object of the institution of civil government," he said, "is the improvement of those who are parties to the social compact. . . . Roads and canals are among the most important means of improvement. But moral, political, and intellectual improvement are duties assigned by the Author of our existence to social no less than to individual man. For the fulfilment of

these duties, governments are invested with power; and to the attainment of the end—the progressive improvement of the condition of the governed—the exercise of delegated powers is a duty as sacred and indispensable as the usurpation of powers not granted is criminal and odious." Hence provision should be made for the erection of an observatory, for the support of an astronomer, and for the periodical publication of his observations. For the same reason, Adams recommended the founding of a national university. In a word, he thought that all the powers delegated to the government should be used for the promotion not only of the well-being of the American people, but for the advancement of the interests of civilization.

Effect of the message.

Imagine the effect of this message upon the men of whom John Randolph was a type, the men who saw no way to political salvation except by restricting within the narrowest possible limits the powers of the general government! How the professional politicians, who had hastened to join the ranks of the Jackson men when they saw that Jackson was going to win, must have congratulated themselves when they heard this message! Our old acquaintance, W. B. Giles, at once opened fire on Adams in the "Richmond Enquirer," declaring that the message had produced a "crisis involving the liberty and happiness of all future ages." Adams was informed that, since the

sending of his message to Congress, the excitement against the general government in Virginia was great and universal.

Jefferson's protest against the violations of the constitution.

Jefferson, despite the weariness natural to a man of his age, was impelled to write a paper which may be considered as a sort of revised edition of the Kentucky resolutions. A member of the Virginia legislature had asked him what should be done in the "crisis." The paper was the reply, which was to be sent to the member and by him presented to the legislature of Virginia as the "solemn declaration and protest" of that commonwealth "on the principles of the constitution and the violations of them." It asseverated that the federal government had in some cases, as in the construction of roads and canals, assumed, and in others claimed, the right to enlarge its powers. But it did not urge Virginia to precipitate action. Every difference of construction, Jefferson said, was not a ground of immediate rupture. Such a rupture would be one of the greatest calamities that could befall the state, and for that reason alone, the paper clearly implied (not because of a lack of power), should be resorted to only in extreme cases. The greatest calamity that could befall the state would be submission to a government of unlimited powers. As a proof of the attachment of Virginia to the Union, the paper proposed that the legislature of the state, instead of resorting to extreme measures, re-enact all the laws which might

be passed by Congress for the construction of roads and canals, in order to give validity to measures which would otherwise be illegal, since the power to pass such laws had never been given to the general government.

Jefferson sent the paper to Madison, and asked the opinion of his old friend as to the propriety of sending it to the member. Although Madison agreed with Jefferson as to the unconstitutionality of the measures of which Jefferson complained, he advised Jefferson not to send it. He also had been written to for advice as to what ought to be done in the "crisis," and he inclosed his reply to Jefferson.

Hardly had the first session of the Nineteenth Congress opened, when the opposition began its attack upon the Administration. Benton of Missouri in the Senate, and McDuffie of South Carolina (a follower of Calhoun, and therefore a Jackson man) in the House, introduced resolutions to amend that part of the constitution which provides for the election of a President. The object of both was to prevent the election from devolving upon the House of Representatives.

Attempt to amend the constitution.

McDuffie opened the debate on his resolution, February 15, with an elaborate speech. By the constitution as it stands, he said, the three highest candidates are referred to the House of Representatives. Is this because the House is more intelligent than the people? Such is the state of

McDuffie's speech.

things in Congress that in general the choice of the people must be defeated. Minorities will always combine against majorities. The vote is by states, and by the corruption of the smaller states a President might be elected. But it might be said that members of Congress were not liable to corruption. Members of Congress not liable to corruption! To ambitious members of Congress there were offices which might appear as tempting as the apple of Eden.

Storrs of New York replied that he did not fear any danger to the government from the corruption of the House. The enemies of the government might be looked for in other quarters. Storrs' reply. Demagogues, who flattered the prejudices of the people, fomented their passions, stirred up party hatred, and persuaded them to consider their public men and statesmen as traitors to their interests, were the real enemies of the republic. Public men must be educated for public stations. Soldiers might be made by nature, but statesmen must be educated. They must devote themselves to the study of the laws and institutions of the country, its history, its domestic and foreign relations, the principles of its public policy, and the spirit of its government.

McDuffie did not take the trouble to reply to the various objections urged against his resolution. He contented himself with declaring that his opponents were the champions of the Administration, "charged with the

duty of presenting its views and vindicating its purity. . . . I believe that the election of the present chief magistrate involved a gross and palpable violation of the spirit and principle of the constitution, and that the means by which it was effected was a bold, daring, and shameless coalition, setting at defiance the will of the nation, and neglecting even the external decencies of political morality—a coalition for which no parallel is to be found in the darkest periods of English history."

This attempt to amend the constitution occupied about one third of the session; but its only effect was to array the two parties in Congress against each other in a more decided manner.

Adams on the Panama congress.

Meanwhile the opponents of the Administration were opposing with great vehemence one of the measures which it had recommended. Adams had stated in his message that there was to be a congress of delegates on the Isthmus of Panama from the new republics of Spanish America; that the United States had been invited to send representatives, and that the invitation had been accepted.

Clay and the Panama congress.

It is easy to realize how the idea of a congress of delegates from American states, called for American objects and based on American principles, would strike Henry Clay. The notion of a league to counteract the schemes of the Holy Alliance and to influence the extension of free gov-

ernment would appeal with peculiar force to the man whose fervid devotion to liberty had made him the first and most persistent champion of the young republics of South America.

But even to the colder and less enthusiastic temper of his chief, objects of the first importance seemed attainable by the representation of the United States at the Panama congress, to wit, the cultivation of kindly relations with our "sister republics"; agreement upon proper definitions of blockade and neutral rights; advantageous commercial arrangements; the abolition of privateering; a concert of measures to bring about the more effectual abolition of the slave-trade; the proper exposition of the "Monroe doctrine."

Objects to be attained at the Panama congress.

Moreover, the United States might be able to exert some influence on the policies of the nations represented at Panama with reference to Cuba. With characteristic obstinacy, although it was apparent to every competent observer that the contest was hopeless, the Spanish government persisted in refusing to recognize the new republics, and kept up the pretence of subduing the revolted colonies. Accordingly, Mexico and Colombia were planning to take the offensive and attack Spain in Cuba and Puerto Rico.

To say nothing of its effect on slavery, the success of such an attack would be against the interests of

the United States. If these islands were wrested from Spain, they would be in danger of falling into the hands of some great naval power, which would thereby control the Mexican Gulf and the mouth of the Mississippi. To prevent this seemed in the highest degree desirable to the Administration. Clay instructed the United States minister at St. Petersburg to request the Czar to use his utmost influence with the Spanish government to induce it to stop the war, in order to save Cuba and Puerto Rico. At the same time, he was urging the governments of Mexico and Colombia to postpone the execution of their plans to invade those islands. To prevent Cuba and Puerto Rico from falling into the hands of any foreign power was thus another reason why the Administration wished to be represented at Panama.

Interest of the United States in Cuba and Puerto Rico.

The Senate Committee on Foreign Relations, a majority of whose members were opposed to Adams, brought in a report adverse to the mission. After a long debate, the report was voted down by a majority of five, and the nominations were confirmed. The spirit of the opposition is clearly shown by a remark said to have been made by a Jackson senator: "Yes, they have beaten us by a few votes after a hard battle; but if they had taken the other side and refused the mission, we should have had them."

Senate confirms nominations to the Panama congress.

In the House, a bill making the necessary appropriation for the mission was vigorously attacked. The

men who boasted of their devotion to a strict construction of the constitution tried to prevent the executive and the Senate from exercising their undoubted constitutional powers by refusing to appropriate the necessary means. In the course of the debate the Monroe doctrine was characterized as a vague and loose declaration. Some of the opponents of the Administration even took the ground that if Spain chose to transfer Cuba to any European power, we had no right to interfere.

An attempt made to defeat the Panama mission.

The bill making the appropriation was finally carried by a vote of more than two to one. But the length of the debate prevented the representation of the United States at Panama. One of the commissioners died on the way, and the other was prevented from attending by the tardiness of Congress in passing the bill.

The opposition to the mission was not, however, entirely factious. The invitations of Mexico and Colombia said that one of the questions to be discussed by the congress was the recognition of the independence of the negro government of Hayti. As that government had originated in an insurrection of slaves against their masters, the effect upon slaveholders of a proposition to "determine" its status can easily be imagined. They did not indeed agree among themselves as to how the interests of slavery could be affected by the representation of the United States at a

Status of Hayti to be determined at Panama.

Attitude of the slaveholders towards the Panama congress.

congress where such a question was to be discussed. But whatever those interests demanded, that, they held, must determine the policy of the United States. The major part of them insisted that the question was "not debatable either at home or abroad, not even in this chamber," and therefore that the United States should have nothing to do with a congress which proposed to outrage civilization by debating it; the minority wished the United States to send delegates to the congress in order that the whole weight of its influence might be thrown against recognition of Hayti. They wished the representatives of this country to inform the South American states of the "unalterable opinion of the United States that the unadvised recognition of that island and the public reception of her ministers will nearly sever our diplomatic intercourse, and bring about a separation and alienation injurious to both."

Government must do the bidding of the slaveholders where slavery was concerned.

The chain of reasoning by which Southern men convinced themselves that the duty of the government required it to do the bidding of the South, without asking any questions, where the interests of slavery were concerned, is interesting. Hayne said: "It [the question of slavery] must be considered and treated entirely as a domestic question. With respect to foreign nations, the language of the United States ought to be that it concerns the peace of our own political family, and therefore we cannot permit it to be touched. In respect to the slave-

holding states, the only safe and constitutional ground on which they can stand is that they will not permit it to be brought into question either by their sister states or by the federal government. Let me solemnly declare once for all that the Southern states never will permit, and never can permit, any interference whatever in their domestic concerns, and that the very day on which that unhallowed attempt shall be made by the federal government we will consider ourselves driven from the Union. Let the consequences be what they may, they never can be worse than such as must inevitably result from suffering a rash and ignorant interference with our domestic peace and tranquillity. . . . If it is the policy of the states not to suffer this great question to be touched by the federal government, surely it must be the policy of this government, exercising a paternal care over every member of the political family, not to suffer foreign nations to interfere with it. It is their imperative duty to shun discussion with them, and to avoid all treaty stipulations whatever, on any point connected directly or remotely with this great question. It is a subject of too delicate a nature, too vitally interesting to us, to be discussed abroad." That is to say, rash and ignorant treatment of the subject by non-slaveholders would be fraught with consequences so terrible that everything must be risked to prevent them. Even disunion with all of its long train of evils was to be preferred to the consequences of outside, and there-

fore unintelligent, interference with slavery. Hence the Southern states could not permit it to be brought in question by the North, and thus the opinions of the slave states, although they were at variance with those of the rest of the civilized world, had to be accepted without question by the free states as the principle of their action on any and every question affecting in any way the interests of slavery.

The general government also was just as imperiously forbidden to touch the subject of slavery. It must, in a word, equally with the states, not only refrain from interfering with the institution of slavery, but let Southern men judge as to what constituted interference with it.

On a matter in reference to which moral and political questions of the greatest importance were involved, the state governments and the government of the United States were required to abdicate their judgments and follow with childlike trust the lead of Southern men. Not to accept as final their judgment respecting the interests of slavery was to disregard the condition upon which alone domestic peace and tranquillity could be conserved.

Berrien put the contradiction between the requirements of slavery and the character of American civilization in the most garish light. He said: "When we reflect that they [Cuba and Puerto Rico] are in juxtaposition to a portion of the Union where slavery exists; that the proposed change [in the sovereignty over Cuba,

Contradiction between requirements of slavery and the character of American civilization.

which Mexico and Colombia were proposing to wrest from Spain] is to be effected by a people whose fundamental maxim is that he who would tolerate slavery is unworthy to be free; that the principle of universal emancipation must march in the van of the invading force, and that all the horrors of a servile war will too surely follow in its train, merely commercial considerations sink into insignificance. . . . With a due regard to the safety of the Southern states, can you suffer these islands to pass into the hands of buccaneers drunk with their new-born liberty? . . . We cannot allow the principle of universal emancipation to be called into activity in a situation where its contagion from our neighborhood would be dangerous to our peace and safety. . . . Cuba and Puerto Rico must remain as they are. We are free to say it and, by the blessing of God and the strength of our own arm, to enforce it."

Starting from premises common to the slaveholders, Berrien maintained that the United States must go to war, if necessary, to prevent Cuba and Puerto Rico from falling into the hands of powers who would free the slaves in those islands. As the Holy Alliance declared its determination to put down by force any attempt on the part of the people of any country in Europe to get rid of oppression, so, according to the logic of the slaveholders, it was the duty of the American republic to go to war against any power that would wrest Cuba and Puerto Rico from Spain, if that power was likely to free

the slaves in those islands. And the slaveholders justified themselves by the same logic as that to which the Holy Alliance appealed. Said the Holy Alliance: The law of self-preservation forbids us to permit revolution no matter how bloodless. Said the slaveholders: The first law of nature imperatively forbids us to permit Cuba and Puerto Rico to be taken by any power that would free their slaves. In truth, the despots of Europe and the slaveholders of the South were both right: the only way in which both could preserve their peculiar interests was by putting themselves squarely across the path of progress. He who always gives up his own material interests whenever the general good requires it, who is so unbiassed by the prejudices which grow out of his own desires as always to be able to see things in the white light of truth,— let him condemn in unmeasured terms both European despots, who had no thought of compassion for the downtrodden of Europe, and Southern slaveholders, who insisted that the Republic whose first utterance was the Declaration of Independence should go to war to prevent the slaves of foreign powers from being freed. Let those of us, however, who are conscious that some of our opinions on important questions are determined by our own interests merely note the fact and be silent.

Near the close of the session, bills were introduced into the Senate to secure in office faithful collectors of the revenue, and to oust defaulters; to regulate the appoint-

ment of postmasters, collectors, and midshipmen; and to prevent military and naval officers from being removed at the pleasure of the executive. These were all unscrupulous attempts to charge the Administration with corruption. In order to give the charge as much publicity as possible, an unusually large number of copies of the report of the committee which brought in the bills was printed and circulated at the public expense.

Not merely in Congress but out of it the Jackson men were straining every nerve to break down an Administration which in its utter refusal to employ any means to advance its interests except that of devotion to the public good has never had a superior. Floyd, a member of Congress from Virginia, told an audience of his constituents that they were engaged in a great war, a war of patronage and power against patriotism and the people. Van Buren, while travelling through the Southern states in the interests of Jackson, wrote to a gentleman at Raleigh: "The spirit of encroachment has assumed a new and far more seductive aspect, and can only be resisted by the exercise of uncommon virtues." The truth is that the Jackson men and the Jackson papers were saying anything, circulating any charges, which they thought would assist them in breaking down the Administration. This Administration, whose corruptness must be resisted by the exercise of uncommon virtues, absolutely refused to remove a naval officer at New Orleans who tried to get up

Charges against the Administration.

a public demonstration to insult a member of Congress who had voted to make Adams President. Clay strenuously urged his removal. But Adams refused. "If I should remove this man for this cause," he said, "it must be on some fixed principle which should apply to others as well as to him. And where is it possible to draw the line? Of the custom-house officers throughout the Union four fifths were, in all probability, opposed to my election. They were all now in my power, and I had been urged very earnestly to sweep away my opponents, and provide with their places for my friends. I can justify the refusal to adopt this policy only by the steadiness and consistency of my adhesion to my own. If I depart from this in one instance, I shall be called upon by my friends to do the same thing in many. An insidious and inquisitorial scrutiny into the personal dispositions of public officers will creep through the whole Union, and the most selfish and sordid passions will be kindled into activity to distort the conduct, and misrepresent the feelings, of men whose places may become the prize of slander upon them." Adams not only laid down this principle, but made all his public acts square with it. During the four years of his presidency he made but two removals, and these were for official misconduct. This was the Administration which was to be resisted by the uncommon virtues of the party of Martin Van Buren!

Adams and the civil service.

CHAPTER XXXI.

THE ELECTION OF JACKSON.

THE opposition to Adams was composed of very heterogeneous elements. There were the followers of Calhoun and Crawford, both of whom had committed themselves to the broad construction of the constitution; the followers of Jackson in Pennsylvania, which state was devoted to the doctrine of protection; the followers of Jackson in the West, who were strongly in favor of internal improvements. How were all these to be induced to act with the uncompromising advocates of free trade, states' rights, and strict construction, of which Jackson's following in the South was for the most part composed? States' rights men and strong-government men, strict constructionists and broad constructionists, protectionists and free-traders, internal-improvement men and anti-internal-improvement men—could this motley crowd be prevailed on to act together to accomplish a common purpose?

Elements of which the opposition to Adams was composed.

In endeavoring to ascertain the means of fusion, there is great danger of laying undue stress on the operation of secondary causes. No doubt the disappearance of the Federalist party and the absence of that intense interest in public

Causes of the organization of the Jackson party.

affairs of which this disappearance was the expression caused a large class of men to enter public life not for what they hoped to do for the country, but for what they hoped to do for themselves. It is equally true that these eminently "practical politicians," the prototypes of the spoils-hunters of to-day, gave the Jackson managers a great opportunity. All that the latter had to do was to convince the spoilsmen that they could promote their own interests by opposing Adams, and the question as to their attitude towards the Administration was settled. But to give this as a sufficient cause for the fusing together of utterly discordant elements into a compact political organization would be a perversion of the facts of history. To know what motives induced the professional politicians to work for Jackson is one thing; it is quite another thing to determine the animus underlying the efforts by means of which they sought to influence the judgment of the people.

What this animus was the preceding chapter undertook to point out—the belief that Adams had been elected through a corrupt bargain, or, at any rate, that he had been elected in such a way as to establish a precedent which would facilitate the perpetration of similar frauds in the future. It was these opinions that made it possible for the politicians to organize the opposition into a compact political party. These opinions enabled the politicians to insist that differences on the questions of states' rights, the proper construction of the constitu-

tion, protection, internal improvements, were matters of unimportant detail in comparison with a question that struck at the very roots of popular government. Even Calhoun, though, from the time he entered public life until the election in 1825, he had subscribed, as we know, to every detail of the political creed of Adams ("that great and good man," as he once called him), tried to convince his constituents, and perhaps succeeded in convincing himself,—through the influence of the very powerful argument that Jackson was to have but one term and that he was to succeed him,—that the manner in which the President had been elected demanded that his administration be opposed by all true Democrats.* Edward Livingston of Louisiana, also, whom we remember as one of the ablest of the young Republicans in Congress in the days of Federalist supremacy, but who so completely forgot the opinions of those earlier years as to tell the President that he believed every word of his annual message of 1825, somehow got the consent of his mind to assist in the formation of the new party.

It cannot be maintained that Jackson himself took part in the work of organization; but the vehemence with which from time to time he denounced his opponents as enemies of liberty greatly facilitated the efforts of his partisans. A letter

Jackson's work in the campaign.

* In a speech in 1825 he expressed his "entire confidence in the virtue and intelligence of the American people."—Niles, XVIII., 266.

which he wrote in 1826, in reply to an invitation to visit Kentucky for the purpose of "counteracting the intrigue and management of certain individuals" against him will serve to illustrate the stand he took in his campaign. "If it be true," said he, "that the Administration have gone into power contrary to the voice of the nation, and are now expecting, by means of this power thus acquired, to mould the public will into an acquiescence with their authority, then is the issue fairly made out: shall the government or the people rule? And it becomes the man whom the people shall indicate as their rightful representative in this solemn issue so to have acquitted himself that, while he displaces these enemies of liberty, there will be nothing in his own example to operate against the strength and durability of the government."

All the contests of the ages were to his mind resumed in the struggle between him and his antagonists. On the one side were represented civil liberty, republicanism, devotion to the welfare of the people; on the other, despotism, fraud, and self-seeking. To be for Jackson was to be on the side of progress and humanity; to be for Adams and Clay was to be on the side of a shameless coalition which had already cheated the people and was trying to do it again.

The master spirit in the work of the organization of the Jackson party was Martin Van Buren. He had been for Crawford in the preceding campaign, but when

he saw that Jackson was the coming man he also conveniently came to believe that the well-being of the country depended on Jackson's election.

Van Buren's methods.

How Van Buren accomplished his task the world will never know. Men who work with the methods which he employed do not leave documentary evidence behind them. Indeed, so extraordinary was his skill, so marvellously accurate was his judgment as to the men in whom he could confide, that as late as the spring of 1827, when for two years he had been working earnestly for Jackson, the "National Intelligencer" of Washington asserted that it did not believe that Van Buren had committed himself!

Hammond, a member of Congress from New York from 1815 to 1817, who was actively interested in politics at this time, tells us something of Van Buren's methods in New York. "Never," he says, "was a political party in a better state of discipline than the Van Buren or Democratic party in New York during the years 1826, 1827, 1828. A sense of common danger entertained by the leaders of that party probably had a great effect in inducing them to act in concert. . . . I hazard little with the men who were at that day in public life, and knew the state of public feeling, in asserting that had the question been taken between Mr. Adams and General Jackson at any time during the first two years of the presidency of the former, a very large majority of the people would have declared for Mr. Adams.

Hence Mr. Van Buren and his friends enjoined most rigidly on all their adherents not to commit themselves on the presidential question. They avowed that their sole object was to preserve the entire union of the Democratic party, and when that party at the proper time should announce its preference for either of the two candidates, they would in good faith endeavor to carry into effect its determination. The Democratic newspapers, and especially the 'Albany Argus' [which was the organ of Van Buren, and had said during the preceding campaign that Jackson had not a single feeling in common with the Republican party], were conducted with great skill and address in accordance with this scheme. So rigidly were these injunctions of what has been called the Albany Regency enforced that several individuals, fascinated with the personal character of General Jackson, who openly declared their preference for him, were at least silently rebuked and partially put into political Coventry by the same class of men who at that time had fully determined that General Jackson was to be their candidate."

These tactics of Van Buren were not indeed pursued solely with reference to the presidential question. He was himself a candidate for re-election to the United States Senate, and so popular was Adams in New York that he knew that a premature avowal of his preference for Jackson would greatly diminish his prospects of success. Hence it happened that although he had systemat-

ically opposed the measures of Adams, although he had organized the opposition against him, although he had already made a tour through the Southern states in Jackson's interest, his friends in the legislature of New York were able to put on a bold face and declare that he was not opposed to the Administration! In a letter written in reply to the notice of his re-election to the Senate — a re-election which was effected largely by the votes of the Adams men — he said: "It shall be my constant endeavor to protect the remaining rights reserved to the states by the federal constitution," and "to preserve those of which they have been divested by construction."

The general nature of Van Buren's tactics is now clear: secretly, with those whom he could absolutely trust, to concert measures with the utmost care and skill to elect Jackson men to office; publicly, not to avow himself for Jackson, but to pursue such a course as to make that avowal in the course of time a logical necessity. Whose were the virtues which were to save the constitution? Jackson's! By whose aid were the rights of which Adams had not yet been able to deprive the states to be protected? Jackson's! This was what Van Buren meant that people should understand, but no one could charge him with having said it.

After his re-election to the Senate, according to Hammond, more freedom was tolerated in the expression of opinion favorable to Jackson and adverse to Adams.

Adams was represented as cold and reserved, and as inclined to enlarge the powers of the general government at the expense of those of the states. In September, 1827, the veil was thrown aside in New York. All the machinery which Van Buren had arranged with such infinite care during the preceding two years was suddenly put in motion, and it worked to admiration.

The Twentieth Congress met in December, 1827. The election of a Jackson man, Andrew Stevenson of Virginia, as Speaker showed that Jackson's friends were in the majority in the House of Representatives. They were also in the majority in the Senate.

Work of the Twentieth Congress.

This Congress devoted itself, not to legislating for the good of the country, but to making moves on the presidential chessboard. Every device that ingenuity could invent to give an appearance of truth to the charge which Jackson was so vigorously and honestly asserting, that the Administration was trying again to cheat the people, was resorted to. Propositions for retrenchment and for the punishment of defaulters, detailed investigations of expenses, conducted in a grossly partisan manner, were the order of the day. A tariff bill passed the House of Representatives, and was defeated in the Senate by the casting vote of the Vice-President. Van Buren happened (?) to be absent when the vote was taken, else the responsibility of passing or defeating the bill would have devolved on him.

During the course of the next session, the law commonly known as the "tariff of abominations" was passed. After the vote was taken upon it, Randolph said: "The bill referred to manufactures of no sort or kind except the manufacture of a President of the United States." And, in 1833, Root, a representative of New York, said: "It [the tariff of 1828] was fastened on the country in the scuffle to continue the then incumbent in office, on one side; and on the other, to oust him and put another in his stead. . . . The public weal was disregarded, and the only question was: Shall we put A or B in the presidential chair?"

The "tariff of abominations."

The bill was reported by the Committee on Manufactures, the majority of whom were Jackson men, or Democrats as they were now beginning to be called in contradistinction to the Adams men, who called themselves National Republicans. The leading Democrat on the committee, Silas Wright, of New York, was a confidential friend of Van Buren, and was probably put on the committee through Van Buren's influence.*

The problem before the Democrats was to introduce a tariff bill which would improve Jackson's chances for

* Wright was one of the men who knew as early as April, 1826, seventeen months before the Van Buren papers declared themselves, that Van Buren was working for Jackson, as a letter which he wrote to Van Buren proves. See Life of Wright by Hammond.

the presidency. As his strength lay in two sections, one of which, the South, bitterly opposed protection, while the other, comprising the Middle and Western states, strongly favored it, this problem would have seemed to most men insoluble. But the situation compelled the Jackson men to attempt its solution. They accordingly presented a bill which, to say the least, was ingenious. Thanks to the breach which afterwards took place between Calhoun and the Democrats, we are not left to inference as to what was the intention of the bill. Its object was, Calhoun afterwards said, to lay such heavy duties on raw materials in which New England was interested as to make the New England men oppose it. But as these heavy duties on raw materials were precisely what the Middle and Western states wanted, the Democrats counted on gaining support for Jackson in one section of the country by introducing and defending such a measure. The Democrats from the South (free-traders) agreed with those from the Middle and Western states (protectionists) that no amendments should be made to the bill which would make it more acceptable to New England. Should the protectionists of that section attempt to amend the bill so as to make it less obnoxious to their constituents, the free-traders of the South were to vote against them with the protectionists of the Middle and Western states. But when the final vote should be taken, the Southern Democrats were to vote against their own

Problems of the Democrats in connection with the tariff.

measure with the New England men. If there should be a solid New England vote against it, it would be defeated—which was what the South wanted. But that would help Jackson, because it would enable the Democrats to say that the New England following of Adams was opposed to protection. If, on the other hand, enough of the New England men swallowed the bill to turn the scale in its favor, as the Democrats from the Middle and Western States hoped, the result would still be favorable to Jackson. For the South would be certain to give its support to Jackson in any case, and the passage of the bill would win friends for him in the Middle and Western states. In a word, if the bill failed, as the Democrats of the South hoped, it would be a Jackson victory; if it passed, as the Democrats of the Middle and Western states hoped, it was still to be a Jackson victory. The Democrats had contrived to stamp Jackson's head on both sides of the coin; no matter which side turned up, Jackson was to win.

The bill was introduced by Mallary, chairman of the Committee on Manufactures and a National Republican from Vermont. He moved to amend it by inserting the tariff scheme which had been agreed upon by a national convention of manufacturers in the preceding summer—a scheme in which an attempt had been made to arrange a schedule of duties with a view to the interests of the entire country. Seventy-eight National Republicans and two Demo-

Attempt to amend the bill in the House.

crats voted for his amendment, one hundred Democrats and fourteen National Republicans against it. Thirteen of the negative National Republican votes were from the Middle and Western states.

An amendment was offered to reduce the duty on molasses, which had been made very heavy for the double purpose of pleasing Louisiana and displeasing New England, as the New-Englanders used large quantities of molasses in making rum and as an article of food. This amendment was voted down, ninety-five Democrats voting against it and only ten for it. The Southern men did not conceal their motives in voting against this amendment. One of the South Carolina representatives said: "He should vote for retaining the duty on molasses because he believed that keeping it in the bill would get votes against it on its final passage." In other words, the bill was to be kept as bad as possible in order that it might be defeated. But when the final vote on it was taken in the House, it appeared that it was not quite bad enough to accomplish the wishes of the South. Twenty-three votes were cast against it by the representatives of New England, and sixteen for it. If six of those sixteen votes had been thrown against it, the bill would have been lost.*

When the bill came before the Senate, substantially the same comedy was reënacted, the same parody of an

* Niles, XXXV., 57.

attempt to legislate for the welfare of the whole country. There was again the strange spectacle of the high-tariff men of Pennsylvania and the free-traders of South Carolina casting vote after vote on one side, and the high-tariff men of New England on the other. An amendment to increase the duty on coarse woollens, which had been made low by the House for the same reason that the duty on wool had been made high — to displease New England — was also defeated. Probably Webster, who since 1824 had changed his ground with Massachusetts on the subject of protection, saved the bill.* A slight change in the duty on woollens in favor of New England — rendered possible by the votes of Van Buren and Woodbury, two Democratic senators,— together with other "paramount considerations," induced him to vote for the bill. It passed the Senate by a vote of twenty-six to twenty-one. The "paramount considerations" undoubtedly were the influence of the measure upon the presidential campaign. Much as the National Republicans disliked it, they hesitated to incur the responsibility of defeating it. This unwillingness to incur the responsibility of its defeat probably caused enough of them to vote for it to save it; as Niles put it, the Southern Democrats found themselves "trapped by ill-digested and discordant combinations."

Attempt to amend it in the Senate.

* Adams' Memoirs, VII., 531-4.

When the news of the passage of the law reached Charleston, the flags of some of the vessels were half-masted. A meeting of citizens in South Carolina passed resolutions recommending the state to resist it. The Georgia Journal quoted with approbation McDuffie's characterization of it as an "abominable scheme of legalized plunder," and Hamilton's assertion that the protectionists were compelling the South to call in question the value of the Union. Niles summed up his understanding of the situation in the following language: "To us it is entirely manifest that certain persons in the South are now, as other persons in the East were in 1814, resolved to rule or ruin the state."*

Effect of the news of the passage of the law on the South.

There is, indeed, a curious likeness between the responsibility of the Federalist leaders for the War of 1812 and that of the Southern Democrats for the tariff of 1828. As the Federalist leaders, in order to gain political advantage, voted for measures preparatory to a war to which they were bitterly opposed, so did the Southern Democrats vote for amendments to the tariff of 1828. As the Federalists afterwards threatened nullification and secession on account of a war for which they themselves, to a certain extent, were responsible, so the Southern Democrats were threatening nullification and secession because of a

Comparison of Southern Democrats and the New-England Federalists.

* Niles, XXXIV., 302.

measure of whose most obnoxious features they were the sponsors. But on the other hand it must be said, to the credit of the Federalists, that they were not fighting for an advantage so purely personal in its character as were the Southern Democrats in their union with the Democrats of the North in relation to the tariff of 1828. On the other hand, however, it must be said, to the credit of the Southern Democrats, that at least they were not guilty of the baseness of making the country choose between disgraceful and humiliating submission to England and what they regarded as its inevitable alternative, a disgraceful and dishonorable war.

Congress adjourned May 26, 1828. The campaign which followed was very exciting. Multitudes of people without any special interest in politics neglected their business on account of it. Social intercourse was interrupted. On the one side a corrupt coalition, on the other an unprincipled combination, was charged. Every incident in the life of either candidate that could in any way be twisted into a story to his disadvantage was made the basis of charges, some of them as shameful as they were untrue. Campaign papers were first started in this year, and those of both paries had little or no regard for the ordinary decencies of life. One of them brought charges against Jackson's mother which brought tears to the eyes of the stern old warrior. "Myself," he said to his wife, "I can defend; you I can defend; but now they have assailed

Character of the campaign.

even the memory of my mother." Even the moral character of Adams, as pure a man as ever lived, was besmirched by the foul outbreathings of party passion.

Niles called it the most rude and ruthless political contest that ever took place in the United States. He said with equal truth that it not only disregarded private honor,— that it was disgraceful to the freedom of the press; and that if the hundredth part of what had been said against the two candidates were true, they ought to have been committed to the penitentiary for life.

When the votes were counted, it turned out that Jackson had received the entire electoral vote of Pennsylvania, all the votes of the Western states, and those of all the Southern states except Maryland, which gave him six votes. His total electoral vote was one hundred and seventy-eight, while Adams' was only eighty-three. Outside of New England, Adams received electoral votes only in New Jersey and Delaware, which gave him theirs entire, and New York and Maryland, which divided theirs between the two candidates.

Result of the campaign.

What was the meaning of this crushing defeat? It was not due to the bargain-and-corruption charge. That charge doubtless swelled Jackson's majority. But in 1824, before any such charge was made, it is reasonably certain that if the choice had lain between Adams and Jackson, the latter would have been elected.

Nor can the election of Jackson be wholly explained by the fact that he was a Western and Southern man and a slaveholder. The solidarity of the West and South for him was doubtless in part the result of these causes. But how was it that Pennsylvania gave him a popular majority of fifty thousand?

No; the vote of Pennsylvania proves conclusively that other causes were in operation. What they were is indicated quite clearly by the manner in which Jackson was first put forward as a candidate. He was not nominated by the politicians. He was nominated by the people. The people said, in effect, to the politicians and men of experience in public life: We do not need your assistance in selecting a man for the presidency. We can do it ourselves, just as we attend to our business, without your aid. And the men who said this in 1824 felt the force of it much more strongly in 1828, since the election of Adams had made them realize how a small number of men might defeat the people's will. Nor was the influence of the latter consideration confined to those who had come to believe that expert knowledge, special training, were unnecessary for the guidance of the people in political matters. A man might surely repudiate with the utmost possible emphasis the doctrine that many thoughtful persons were coming to hold—that the people were in some semi-mystical, semi-supernatural sense led to wise decisions in political matters—and yet maintain that the judgment of the masses was a safer guide

than its only possible alternative. Assuming, as we must, that men, as a rule, act from self-interest, we are compelled to believe either that the people, blindly and ignorantly but yet earnestly, seeking their own welfare, can more safely be trusted to promote the public good, or that the general welfare is more likely to result from the decisions of a few whose primary aim is not to promote it but to advance their own interests.

There were, then, two great questions at issue in the campaign of 1828. One was: Are political questions *sui generis?* Is it true that while expert knowledge is valuable in law, medicine, engineering, in every other department of life, it is of no value in politics? Is it true that while men have to toil and toil to learn what is true and wise in relation to everything else, the exercise of unaided common sense is a sufficient guide in the decision of questions in relation to protective tariffs, the proper interpretation of the constitution, and all the other exceedingly complex questions upon which a free people are required to express an opinion when they vote? Beneath the disgusting trivialities and personalities of the campaign of 1828 was concealed this momentous question, than which no greater has even been before the American people.

Questions at issue in the campaign.

There are no such things, of course, as abrupt breaks in the development of a nation. The contention, therefore, is not that the uneducated classes of the American people slept the sleep of habit and tradition, and

that they all at once awoke to the life of crude thought and reflection on political questions. But it is maintained that, for the first time in our history, a large enough number of the uneducated classes—and the number of those who were entitled to vote was constantly increasing through the extension of the suffrage—dispensed with the guidance of the educated to exercise a controlling influence over the course of events.

The other question at issue in the campaign was the following: Which is the safer guide to the public welfare, the unsophisticated common sense of the people, trying to promote their own good, or the highly trained judgment of men of experience in public affairs, trying primarily to advance their own interests?

With the election of Jackson, American political thought entered upon what we may term its third stage. In its first stage the prevailing opinion was that men without education and property have neither enough intelligence nor interest in public questions to be entitled to a voice in affairs. In its second stage the belief most widely held was that men of education and property are too selfish to be trusted to make laws for the uneducated,—that no class can be trusted to make laws for another; but the expectation was that the influence of the uneducated would be confined to selecting members of the educated classes who would act as experts in political matters. In its third stage multitudes of the uneducated repudiated the application in political affairs

of the theory upon which they acted in every other field of human endeavor—that special knowledge of a subject is required to enable men to decide intelligently upon matters connected with it.

To the student of politics in 1828 it must have been an interesting question as to what the fourth stage of American political activity would be. Would the pendulum of political thought and practice swing back again to the ideas of Hamilton—would the people come to confine their political activity to the selection of men qualified by education, experience, and character to decide political questions intelligently? Or would it swing still further in the direction of the ideas of Jefferson—would the people come to devise ways and means of giving definite expression to their will and make it legally binding upon their representatives?

The answer to such a question would be easy if we could assume that political practice would ultimately take the course marked out by the constitution.

For it must be noted that the democratic principle is *opposed* to the underlying principle of the constitution. That principle is that experts shall be selected for office, and, within the limits prescribed by the constitution, be permitted to do what they please. The vast appointing power of the President, the method of electing a President and senators, are a few of the illustrations of the fact that the men who made the constitution disbelieved in the principle advocated by the Jackson men. But in 1828 it

was abundantly evident that the political development of the American people was not to be determined by the constitution.

We must note in conclusion that Jackson's election was effected by an alliance between what we may call the Simon-pure Democrats of the Middle and Western states and the aristocratic South. The party which was to take possession of the government in 1829 was composed of two elements utterly antagonistic to each other in temper and spirit. How long could the democratic West and the aristocratic South work together? What would be the result of the dissolution of their alliance?

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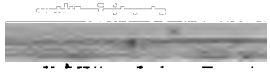

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